

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1119

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff-Appellee

v.

UNITED STATES OF AMERICA,

Defendant-Appellant

ON APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE EASTERN
DISTRICT OF NEW YORK

APPENDIX

Volume IV (pp. 576-747)



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PAGINATION AS IN ORIGINAL COPY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 70-C-70

AVIS RENTACAR SYSTEM, INC.

PLAINTIFF

VS

DEPOSITION FOR THE DEFENDANT

UNITED STATES OF AMERICA

DEFENDANT

DEPONENT:

Ralph E. Howson, Jr.

(February 21, 1973)

[Filed April 9, 1973]

FEDERAL REPORTERS

BY

M. D. ODLE

OFFICIAL AND GENERAL COURT REPORTER

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 70-C-70

AVIS RENTACAR SYSTEM, INC.

PLAINTIFF

VS

DEPOSITION FOR THE DEFENDANT

UNITED STATES OF AMERICA

DEFENDANT

DEPONENT:

Ralph E. Howser, Jr.

(February 21, 1973)

APPEARANCES:

For the Plaintiff

Robert Layton, Esquire
Gilbert, Segall & Young
405 Park Avenue
New York, New York 10022

For the Defendant

Robert J. Hipple, Esquire
Trial Attorney-Tax Division
Department of Justice
Washington, D. C. 20530

Howser - Direct

[2.]

The deposition of RALPH E. HOWSER, JR., taken at the offices of the United States Attorney, Federal Building, Louisville, Kentucky, on Wednesday, February 21, 1973, at about the hour of 2:00 P.M., said deposition being taken pursuant to Notice for use in accordance with the Federal Rules of Civil Procedure, the reading and signing of the deposition by the witness being expressly waived by counsel and all objections except as to form will be preserved until the trial, and notice of the filing of the deposition being expressly waived.

RALPH E. HOWSER, JR., after first being duly sworn, deposed and said as follows, to-wit:

DIRECT EXAMINATION BY MR. ROBERT J. HIPPLE

MR. HIPPLE : Will you state your name and current address, please?

MR. HOWSER : RALPH HOWSER, 9505 Tiverton Way, Louisville.

Q Your current occupation?

A P.S.A. with Transworld Air Lines.

Q Would you explain what P.S.A. is?

1 Howser - Direct

2 A The initials stand for Passenger
3 Service Ambassador. It's formerly a P.R.

4 Q Will you tell us what your
5 occupation or position was during the period 1962 to
6 1966?

7 A Customer Service Agent.

8 Q With TWA?

9 A With TWA.

10 Q In Louisville?

11 A In Louisville.

12 Q Have you ever acted as a car
13 shuttler for Avis?

14 A If you meant -- if you mean have I
15 ever shuttled a car, yes.

16 Q Yes. That's what I mean. Do you
17 recall --

18 A (Interrupting) Not professionally.

19 Q Have you ever done it?

20 A Yes.

21 Q That's what I meant. Do you recall
22 about when it was?

23 A Well, honestly -- 1962 to 1966, I
24 really couldn't say it was between that period of time
25 I -- I just don't -- yes, I have done it, but it's

1 Howser - Direct

[4.]

2 been a long time.

3 Q Okay. Would you describe briefly
4 what you did as a shuttler?

5 A I flew on TWA on one occasion to
6 St. Louis and picked up an Avis car at the airport and
7 drove it back to the airport in Louisville.

8 Q Is that the only time you did it?

9 A No. I -- the same thing in Kansas
10 City once.

11 Q Do you recall how many times you
12 did do it?

13 A Twice, to my knowledge. There's
14 one time I went to Dayton, but I don't recall whether
15 it was Avis or Hertz. In those early sixties or
16 mid-sixties this was quite a common occurrence for all
17 airline employees, it seems.

18 Q Do you recall how you first found
19 out about the shuttling?

20 A It was just general knowledge
21 around the airport, and when one of the rental car
22 companies would have a car stranded in some city, they
23 would contact the air carrier that flew into that city
24 from Louisville and ask if anyone was available to go
25 bring a car back.

1 Howser - Direct

[5.]

2 Q Would you recall if that's how you
3 got your first shuttling contract?

4 A Oh, yes, sure.

5 Q Do you recall who it was -- not by
6 name but by position or title or something -- that you
7 talked to or contacted you?

8 A No, I don't. I really don't.

9 Q Do you recall if it was a telephone
10 or somebody coming over to TWA?

11 A Usually, it would occur by a phone
12 call to our Operations office, "Who's off tomorrow,"
13 this type of thing.

14 Q The first time you did it, do you
15 recall whether, and if so, how the shuttling operations
16 were explained to you?

17 A Only that they would pay me so much
18 a mile to drive the car back. I don't remember what
19 the mileage fee was. It seems to me that St. Louis was
20 around \$20.00.

21 Q Do you remember if you had to fill
22 out any forms getting any kind of personal information
23 before you started the shuttling?

24 A Before I started?

25 Q Yes, sir.

1 Howser - Direct

[6.]

2 A No. As I recall, we just appeared
3 at the counter in St. Louis and identify ourselves
4 and -- driver's license, and so forth, and that's all.

5 Q Do you know whether the Avis office
6 here kept a list of people that did shuttling?

7 A I do not know.

8 Q I show you what is previously
9 marked as Defendant's Exhibit A and ask you if you can
10 identify that or if you've ever seen one before?

11 A (Examining document) Well, if I
12 have ever seen one, I don't remember it.

13 Q Okay. Do you recall if there was
14 any kind of a contract or document that you took with
15 you or picked up when you got a car to show the
16 transfer?

17 A I don't recall.

18 Q When you first started shuttling
19 or any time when you were doing this, do you recall
20 being asked by someone from Avis for your Social
21 Security number?

22 A I don't recall. Only a driver's
23 license.

24 Q That's the next question.

25 A That I remember.

1 Howser - Direct

[7.]

2 Q Do you remember who it was that
3 asked for your driver's license?

4 A No; because it was on the other end.

5 Q In St. Louis?

6 A In St. Louis.

7 Q Or wherever you went?

8 A Right.

9 Q How about driving record?

10 A A driving record?

11 Q Yeah; whether you had any speeding
12 tickets or accidents or anything like that.

13 A No. But I would think that they'd
14 look at the back of those -- aren't those things
15 recorded on driver's license?

16 Q Kentucky? I don't know (Laughter).
17 A lot of states, they are.

18 A The points are, I think. I never
19 had any, but I --

20 Q (Interrupting) How about home
21 address or office address, phone numbers, yours
22 personally rather than TWA's?

23 A Was I asked this information?

24 Q Yeah.

25 A May I say that -- if I can't ever

1 Howser - Direct.

[3.]

2 remember the year, I just can't honestly say. I don't
3 know.

4 Q Fine. Only what you can remember

5 (Laughter).

6 Do you recall any kind of an interview
7 before you began shuttling --

8 A (Interrupting) No.

9 Q (Continuing) -- either in Louisville
10 or in St. Louis?

11 A Interview? No, never.

12 Q To the best of your present
13 recollection, would you describe the general steps
14 from the time you were first contacted by Avis and
15 asked to shuttle a car through picking it up and
16 delivering it to destination, who you saw, what you did?

17 A When the phone call was received,
18 the person answering the phone would usually go if he
19 could, I suppose. But they'd ask around, anyone want
20 to go to St. Louis, for example, to pick up a car.
21 And anyone who wanted to go would go to the counter,
22 the rental car counter, tell them yes and so forth,
23 and immediately get a pass. And as soon as they got
24 off work they would fly to, again, St. Louis, and
25 after identifying themselves drive the car back to the

1 Howser - Direct

[9.]

2 airport in Louisville and, I believe, paid for it at
3 that time, upon turning in the car.

4 Q At Louisville?

5 A At Louisville.

6 Q Did you have any kind of document,
7 identification or anything else, when you got to St.
8 Louis to show that you were really there and supposed
9 to pick up the car and not just somebody off the street?

10 A I don't recall. The only thing I
11 can remember having to show was my driver's license.
12 It could very well have been, but I don't recall.

13 Q Do you recall how you were paid,
14 cash, check?

15 A I'm sorry; I don't.

16 Q You said you recall you were paid
17 when you got back?

18 A Yes. Because -- never -- I don't
19 believe I ever was paid by mail or anything. I'm
20 certain it was when we got back, un-huh.

21 Q Do you recall how the amount of the
22 compensation was fixed?

23 A It was on a mileage basis.

24 Q Un-huh. Was this something that
25 you agreed on with Avis, or did they just tell you that?

1 Howser - Direct

[10.]

2 cents a mile, eight cents a mile, or whatever?

3 A No. They set -- they set the
4 mileage, and if we accepted it, of course, we agreed.

5 Q How about such things as gas, oil,
6 tolls, any expenses you had on the way?

7 A None. They absorbed that.

8 Q Did they pay you back for that?

9 A Well, let's see --

10 Q (Interrupting) Well, let's put it
11 this way. Did you pay it yourself?

12 A No. I wouldn't -- if I did -- I
13 believe I did have to, on the trip from Kansas City,
14 I had to get some gas, and I merely turned the receipt
15 in and, of course, was reimbursed for that.

16 Q How about the expense in getting
17 from Louisville to wherever you went? In other words,
18 to Kansas City?

19 A I personally was never reimbursed
20 for the amount of the pass. However, I heard that this
21 did take place at times, they also absorbed the price
22 of a pass, couple dollars, or whatever, a dollar or two

23 Q Were you given any specific route
24 to follow back to Louisville?

25 A I don't believe so.

1 Howser - Direct

[11.]

2 Q Any specific time to be back?

3 A No deadline, I don't think.

4 Q Were you allowed to use the car
5 for any personal purposes on the way, stop to visit
6 somebody, bring somebody along?

7 A I don't know. I never asked, but --

8 Q (Interrupting) Anybody say anything
9 about it to you, you could do it or couldn't do it?

10 A No, not that I recall.

11 Q Was the mileage checked before and
12 after you left, do you recall?

13 A Well, yes, it would have been
14 because that's the way I was paid.

15 Q Do you know who did that? Did you
16 do it yourself?

17 A We -- I checked it myself, yes.
18 Let's see -- perhaps it was curiosity or a double-check
19 but I checked it myself, yes.

20 Q Do you recall any kind of checking
21 procedure when you got back to Louisville?

22 A Nothing other than just turning
23 the keys in and, 'Here I am'.

24 Q 'Here I am; here's the car'?

25 A 'Here's the car, no wrecks, no

Howser - Direct

[12.]

nothing'.

Q Do you recall now any kind of instructions or information that was given to you about the shuttling by Avis?

A Any particular instructions?

Q Un-huh.

A No.

Q What to do, where to go, how to do it, other than 'The car is in St. Louis'?

A In St. Louis, and check with their counter there. That's all.

Q Was that ever explained to you what happened if you got a speeding ticket on the way back?

A Not that I recall.

Q How about parking tickets, any other kind of tickets?

A I don't believe so.

Q Did they -- did anybody explain to you what would happen if the car broke down, what to do, where to go?

A I don't think so. It always seemed to be a fairly simple operation to me.

Q How about if you should have on

1 Howser - Direct

[13.]

2 accident on the way back, did they tell you somebody
3 to call or something to do in that case?

4 A I don't believe I was informed of
5 this. However, I know what I would have done.

6 Q But they didn't specifically tell
7 you, 'This is what you do in the event' --

8 A (Interrupting) I can't say they
9 did for sure, no.

10 Q Do you know if you were covered
11 by auto insurance while you were driving the car?

12 A I was covered by my own insurance.

13 Q Do you know whether you were covered
14 by any insurance of Avis?

15 A I do not know.

16 Q And do you recall that being
17 discussed with you or explained?

18 A No.

19 Q Do you know whether Social Security
20 or unemployment taxes or withholding taxes were taken
21 out of the amount paid to you?

22 A Not to my knowledge.

23 Q Was anything said about that,
24 payroll deductions?

25 A No.

1 Howser - Direct

[1:7]

2 Q And do you recall whether or not
3 you included the cash or whatever it was you were paid
4 on your own return?

5 A No, I don't.

6 Q Do you know anybody else who
7 shuttled a car for Avis during that period, '62 to '66?

8 A Well, yes. It was between '62 and
9 '66 that I did this and -- Mr. Lankford is one of them,
10 and I mention him because he and I flew to St. Louis
11 together one time and brought two cars back, you see.

12 Q Is he also with TWA?

13 A Yes, that's right. That's the
14 only one I can give a name of. Like I said, it was
15 common practice.

16 Q Did you ever see or hear of any
17 ads for shuttlers in newspapers as such?

18 A No. I never looked.

19 Q Do you recall what you were given
20 when you got the car in St. Louis or Kansas City
21 besides the keys and registration?

22 A No, I don't.

23 Q Do you know whether you were
24 covered by any kind of health or accident insurance
25 maintained by Avis while you were driving?

1 Howser - Direct

[15.]

2 A I don't know if I was or not.

3 Q How about any kind of other

4 Workmen's Compensation or fringe benefits?

5 A Not that I know of.

6 Q Did you ever file a claim?

7 A No.

8 Q Do you know anybody else that did?

9 A No.

10 Q Do you know if anyone who shuttled
11 on a frequent basis for Avis was given preference,
12 choice of cars or available jobs?

13 A No.

14 Q Did you ever have to share any
15 part of your fee or compensation with anybody else?

16 A No.

17 Q Were you ever asked to do that?

18 A No.

19 Q Do you know if there was a foreman
20 or a head shuttler, I mean, controlled the shuttling
21 activities for Avis?

22 A No.

23 Q You don't know, or there was none?

24 A I don't know.

25 Q Okay.

1 Nowser - Direct

[6.]

2 A No, I don't know (Laughter).

3 Q Did you have any type of

4 identification or card or anything to show people in
5 St. Louis or Kansas City or wherever you were --

6 A (Interrupting) Only my personal
7 identification. However, they were aware of my name,
8 the fact that I was going to be presenting myself to
9 pick up a car and drive back.

10 Q Do you know how they found out?

11 A No. But those firms in the
12 transportation business have excellent communications
13 (Laughter).

14 Q Do you know what records, if any,
15 were maintained by Avis to show --

16 A (Interrupting) No.

17 Q (Continuing) -- the names or the
18 persons --

19 A (Interrupting) I have no idea.

20 Q Do you recall if you signed any
21 kind of receipt when you got there, petty cash receipt
22 or anything like that?

23 A I do not recall.

24 Q To your knowledge, was anybody who
shuttled cars with Avis in the past not allowed to do

1 Howser - Direct

[17.]

2 it again for some reason?

3 A Not to my knowledge.

4 Q Do you know whether or not the
5 need for the shuttlers by Avis was a regular thing
6 every day or was it a peak sort of thing, weekends or
7 certain seasons?

8 A I don't think there's any regularity
9 to it, no set pattern. This -- the opportunity to
10 return a car came up occasionally, but there again,
11 with no regularity that I know of.

12 Q That's all I've got. Mr. Layton...

13 ***

14
15 CROSS EXAMINATION BY MR. ROBERT LAYTON

16
17 MR. LAYTON : One or two
18 questions, Mr. Howser. When you stated that it was a
19 common practice at the airport to have occasions when
20 a car was stranded in a city, --

21 MR. HOWSER : (Interrupting)
22 Un-huh.

23 Q (Continuing) -- did you mean that
24 this situation arose with respect to other car rental
25 companies also, for example, Hertz or National?

A Yes. By that I meant other car

1 Howser - Cross

[18.]

2 rental companies and other airlines. I don't -- at
3 that time it seems to me there was only two car rental
4 companies at the airport, Avis and Hertz.

5 Q Avis and Hertz?

6 A I believe. They were long before
7 National or any of the others moved in.

8 Q Did you ever bring back a car for
9 Hertz?

10 A Yes.

11 Q Do you know if any other TWA
12 employees ever brought back cars for Hertz?

13 A Yes.

14 Q They did?

15 A Yes, they did.

16 Q No further questions.

17 MR. HIPPLE : Okay.

18
19 (WITNESS EXCUSED)

20 ***

21
22 [Reporter's Certificate omitted in duplicating]
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25

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 70-C-70

AVIS RENTACAR SYSTEM, INC.

PLAINTIFF

VS

DEPOSITION FOR THE DEFENDANT

UNITED STATES OF AMERICA

DEFENDANT

DEPONENT:

Charles C. Winston

(February 21, 1973)

[Filed April 9, 1973]

APPEARANCES:

For the Plaintiff

Robert Layton, Esquire
Gilbert, Segall & Young
405 Park Avenue
New York, New York 10022

For the Defendant

Robert J. Hipple, Esquire
Trial Attorney - Tax Division
Department of Justice
Washington, D. C. 20530

1 Winston - Direct [2.]

2 The deposition of CHARLES C. WINSTON,
3 taken at the offices of the United States Attorney,
4 Federal Building, Louisville, Kentucky, on Wednesday,
5 February 21, 1973, at about the hour of 2:35 P.M., said
6 deposition being taken pursuant to Notice for use in
7 accordance with the Federal Rules of Civil Procedure,
8 the reading and signing of the deposition by the
9 witness being expressly waived by counsel and all
10 objections except as to form will be preserved until
11 the trial, and notice of the filing of the deposition
12 being expressly waived.

13 ***

14 ***

15 ***

16 CHARLES C. WINSTON, after first being
17 duly sworn, deposed and said as follows, to-wit:

18 DIRECT EXAMINATION BY MR. ROBERT J. HIPPLE

19 MR. HIPPLE : State your full
20 name and your address for the record?

21 MR. WINSTON : CHARLES C.
22 WINSTON, 665 Limaburg Road, Hebron, Kentucky.

23 Q Were you employed with Avis from
24 1962 to '66?

25 A I was employed from '62 to '64.

1 Winston - Direct

[3.]

2 Q Where were you employed?

3 A At Greater Cincinnati Airport.

4 Q What company?

5 A Avis Rentacar.

6 Q What was your position there?

7 A Garageman, serviceman.

8 Q At the time you were working for
9 Avis from '62 to '64 did you ever shuttle a car for
10 Avis?

11 A I shuttled cars from the airport
12 to Cincinnati or from Cincinnati back to the airport.

13 Q Do you recall how often you did
14 that?

15 A It was mostly on mid-week or at the
16 end of the week and the cars were scarce at the airport,
17 go over there and get a car and bring it back for
18 service at the airport.

19 Q Was it every week you would do this
20 or just occasionally?

21 A No. It was practically every week.

22 Q Did you ever do it anywhere else
23 than from Cincinnati to the airport?

24 A No. Not out of town.

25 Q Did you ever do that other than on

1 Winston - Direct

[4.]

2 the time clock, at Avis'?

3 A No, I didn't.

4 Q Were you paid anything extra for
5 it?

6 A No, sir.

7 Q Paid your regular salary?

8 A Regular salary.

9 Q Are you familiar at all with the
10 shuttling operation?

11 A Other than what they told me to do,
12 no.

13 Q Could you describe what the
14 procedure was when you went to pick up a car, drive it
15 out to the airport, or vice versa?

16 A Well, I'd just go to their lot on
17 Walnut Street. They'd give me the keys, I'd get in the
18 car and bring it back to the airport.

19 Q Was there any kind of document or
20 papers --

21 A (Interrupting) Nothing only the
22 revenue sheet, the trip sheet.

23 Q Would you examine this document
24 previously marked Defendant's Exhibit A and see --

25 A (Interrupting) Well, they call

1 Winston - Direct

[5.]

2 it a non-rev sheet for employees.

3 Q Take a look at that and identify
4 it.

5 A It was on the order of this, not
6 quite -- not quite this big. It was a small, little
7 small white --

8 Q (Interrupting) Do you recall what
9 was on that non-rev ticket?

10 A Just nothing but mileage, mostly.

11 Q Was it a preprinted form?

12 A Yeah. They told us it was a
13 non-revenue slip for insurance purposes only.

14 Q Were you insured for driving the
15 car?

16 A They told us we were.

17 Q Do you know anybody who drove a
18 car as a shuttler other than an employee of Avis,
19 full-time employee of Avis?

20 A I didn't know their names. There
21 was some colored boys run cars in there during '64 just
22 before I was fired.

23 Q Do you know where they came from
24 or how they were contacted by Avis?

25 A No, I don't.

1 Winston - Direct

[6.]

2 Q Do you know if there was any list,
3 telephone number or anything like that kept?

4 A I don't know anything about that.

5 Q Do you know how they were paid?

6 A No.

7 Q Do you know if they were paid?

8 A I couldn't say that either
9 (Laughter). I guess they were or they wouldn't have
10 been around there long.

11 Q You mentioned that, before we
12 started the deposition that, your son had done some
13 shuttling. Was he doing that on the clock or for
14 compensation off the clock?

15 A That, I couldn't tell you either.

16 Q You --

17 A (Interrupting) He may have been
18 on the clock at the time and it was overtime or -- I
19 don't know how they did it. But Avis didn't take me
20 in their confidence about how they run their business,
21 that's a cinch.

22 Q And during the time you were driving
23 the cars shuttling, do you know if you were covered
24 on accident and health insurance, any other fringe
25 benefits?

1 Winston - Direct

[7.]

2 A The only thing we could go by is
3 what they told us. This ticket that we had was for
4 insurance purposes is what they said.

5 Q In case you had an accident or
6 something like that?

7 A In case we had an accident. In
8 other words, they were specific not to let us take a
9 car out without this ticket on it.

10 Q Did you have any kind of special
11 authorization to drive a car for Avis?

12 A Nothing only that.

13 Q Did they check your license
14 periodically, driver's license, make sure that you were
15 up to date?

16 A Yeah, yeah.

17 Q Did they ever check your driving
18 record?

19 A That, I don't know.

20 Q They never asked you specifically
21 about it?

22 A They never asked me about my
23 driving record, no.

24 Q Did they ever tell you what would
25 happen if you got a speeding ticket?

1 Winston - Direct

[8.]

2 A Pay it yourself.

3 Q Did they tell you that or do you
4 know that?

5 A Well, I never did get one, so I
6 (Laughter) -- I don't know.

7 Q How about a parking ticket or any
8 other kind of ticket?

9 A I never got one.

10 Q Do you ever recall seeing any
11 advertisements in the paper or anything of that nature
12 for car shuttlers of Avis?

13 A No, sir.

14 Q Or any other company, for that
15 matter?

16 A No.

17 Q You say you did this shuttling on
18 a fairly regular basis. Was it during the day?

19 A Yeah.

20 Q A set time that you did it?

21 A It wasn't any set time. It was
22 just they run out of cars or we was getting low on
23 cars, then they'd take and send one of us to
24 Cincinnati and bring one of them back.

25 Q At the time you did this do you

1 Winston - Direct

[9.]

2 have any occasion to know if there were any shuttlers
3 around?

4 A No. If there had been any
5 shuttlers around, they wouldn't have sent us over there
6 after them.

7 Q Then is it true you did this when
8 there was nobody else around?

9 A That's right.

10 Q Did you wear any kind of a uniform
11 or identification when you did this?

12 A We had Avis jackets, leather jackets
13 yeah.

14 Q I can't think of anything else.

15 (To Mr. Layton) Do you want to cover anything?

16 MR. LAYTON : No questions.

17
18 (WITNESS EXCUSED)

19 *** *** ***

20 [Reporter's Certificate omitted in duplicating]
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22
23
24
25

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1 Lankford - Direct

[2.]

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13 ***

14
15 AARON LANKFORD, after first being duly
16 sworn, deposed and said as follows, to-wit:

17
18 DIRECT EXAMINATION BY MR. ROBERT J. HIPPLE

19 MR. HIPPLE : Will you state
20 your name and current address, please?

21 MR. LANKFORD : AARON LANKFORD.
22 That's (Spelling) L-a-n-k-f-o-r-d. 9118 Wanlou Drive.

23 Q That's in Louisville?

24 A That's in Louisville, right?

25 Q Your current occupation?

1 Lankford - Direct

[3.]

2 A Customer Service Agent, Transworld
3 Air Lines.

4 Q And your occupation during the
5 period '62 to '66?

6 A '62-66 -- I'm not sure just when
7 I went to Agent. But I know I was working for
8 Transworld Air Lines. It was either a Ramp Agent or
9 Customer Service Agent. I'm not sure of the date I
10 went to a Agent.

11 Q But that was in Louisville?

12 A That's in Louisville, right.

13 Q Did you ever act as a car shuttler
14 for Avis?

15 A Yes; either a couple or three
16 times. I know of two times, two times.

17 Q Do you recall about when that was?

18 A No. I couldn't even tell you the
19 date, and I couldn't even tell you how much I even got.
20 But I know I did.

21 Q Was it during the period from '62 to
22 '66?

23 A Now, that, I couldn't say, either.

24 Q Okay. Could you describe what you
25 did as a shuttler?

1 Lankford - Direct

[4.]

2 A Well, we -- we could get a, you
3 know, pass on the airlines, and we'd go to -- the only
4 thing I went to was St. Louis and picked up a car and
5 brought it back. But I went one time to St. Louis,
6 caught a Greyhound to, I think it was Carbondale,
7 Illinois, and picked up the car there and then drove
8 it on back.

9 Q Do you recall how you first found
10 out about the shuttling?

11 A Oh, I think I heard some of the
12 other guys at the airlines, you know, talking about
13 guys that could, you know, get a pass, you can go over
14 and make you a little extra money, bring a car back.

15 Q Do you recall how you were first
16 contacted?

17 A No, I sure don't.

18 Q Do you recall if anyone explained
19 the shuttling process to you, somebody at Avis?

20 A Well, the only thing they done was
21 said if you could get the pass and just pick the car
22 up and they'll give you, you know, so much a mile to
bring the car back.

Q Did you have to fill out any kind
of a form, personal information?

1 Lankford - Direct

[.]

2 A No, no, hunh-uh.

3 Q Do you know whether or not Avis
4 got the list of shuttlers, telephone numbers or --

5 A (Interrupting) That, I don't, I
6 sure don't. Because, you know, sometimes we'd go down
7 and check with them and say, "Well, have you got a car
8 in St. Louis," or -- oh, it wouldn't, you know, be
9 worth your while more or less to go up to Cincinnati
10 or somewhere to pick it up and bring it back.

11 Q When you picked up a car, did you
12 have any kind of a document or anything like that to
13 show a description or type car you were supposed to
14 pick up?

15 A I think, if I'm not mistaken, they
16 could get in touch with -- with this, you know, agency
17 at St. Louis, send a message or something, so-and-so
18 was coming over to pick up a car, like Transworld Air
19 Lines or Eastern, or, you know, what-have-you.

20 Q Was there any kind of contract or
21 form that you filled out when you picked up the car to
22 take it back?

23 A No; no, sir.

24 Q Would you examine what's previously
25 marked as Defendant's Exhibit A? Have you ever seen

1 Lankford - Direct

[6.]

2 one of those before?

3 A (Examining document) No, I don't --
4 don't recognize anything like that, sure don't.

5 Q Okay. You don't recall any kind of
6 a document that would describe the car or have the
7 mileage on it or something like that when you picked
8 it up?

9 A No. They'd just say that they
10 was a car over there. They didn't even -- well, you
11 know, it's a Ford or something like that, you know,
12 that you'd be bringing back.

13 Q It would be a Louisville car?

14 A Yeah, a Louisville car.

15 Q Some place else?

16 A Un-huh.

17 Q When you first shuttled, or at any
18 time you did any shuttling, were you asked for any
19 Social Security number by Avis?

20 A Not that I recall. Not that I
21 recall.

22 Q Did anybody ask to look at your
23 driver's license?

24 A I don't even remember -- recall
25 them asking for the driver's license.

1 Lankford - Direct

[7.]

2 Q How about a driving record?

3 A Not even a driving record, no.

4 Q Did anybody ask for a home or
5 business address or phone --

6 A (Interrupting) Well, now, they
7 asked, you know, who you worked for and everything.
8 You see, you know those employees that worked there,
9 you know, and everything.

10 Q Out at the airport?

11 A Out at the airport, right, uh-huh.

12 Q Do you recall being asked for any
13 personal references?

14 A No, no personal references.

15 Q Do you recall being asked about
16 personal auto insurance coverage?

17 A I'm not sure of that. Now, I won't
18 say, but I -- no, I won't say for sure on that.

19 Q Was there any kind of an interview
20 before you started shuttling?

21 A No kind of interview, no.

22 Q As best you can recall -- I know
23 it's been quite a while, but would you describe in as
24 much detail as you can the general steps that took
25 place from the time you were contacted by Avis and the

1 Lankford - Direct

[6.]

2 told you there was a car somewhere?

3 A Well, we --

4 Q (Interrupting) From the time you
5 got there until you got back?

6 A We usually asked them, you know,
7 if they had a car at St. Louis we could pick up, and
8 they'd say -- then they'd check on it and say, "Yeah,
9 we got a couple over there." So I think that's how we
10 and Mr. Howser, you know, we went over together one
11 time, and he drove one back and I drove another one.

12 And this other time, they said that they
13 had one in Carbondale and so I -- I thought probably
14 you could get a -- get a bus and get out of there
15 pretty quick. But I had, I think it was, four or five
16 hours I had to sit in St. Louis before I could get a
17 bus back to Carbondale. So we would just check with
18 them and they'd say they had a car so -- then we could,
19 you know, go in and get -- of course, you could get a
20 pass pretty quick, at the time. But, of course, now
21 at the time now, it takes some time to get a pass.
22 But we could get one pretty quick. And we'd catch that
23 flight out early in the morning, you know, and be over
24 in St. Louis in 40 or 45 minutes and pick the car up
25 and on back.

1 Lankford - Direct

[9.]

2 Q When you got to St. Louis or
3 Carbondale or wherever, was there a specific person
4 you had to see, or what did you have to do?

5 A Well, just check with the counter
6 there, you know, the Avis counter there at the airport.

7 Q You didn't have any kind of a
8 contract or a document or anything?

9 A No.

10 Q Were they expecting you?

11 A Well, you know, they'd send a
12 message. We'd tell them who we were, you know, and
13 they'd send our names or what-have-you, I would imagine

14 Q Was this same procedure followed
15 every time you did it?

16 A Well, let's see. I'm not sure now,
17 the one at Carbondale, if I had to have anything over
18 there to show -- a note or something, I had to have
19 something, you know. I couldn't just go in there and
20 say, well, "I've got a car to pick up here." There
21 was -- it was just a small town, and the guy was there
22 at the bus station. I think that's where they had the
23 car.

24 Q You don't recall --

25 A (Interrupting) I don't recall

1 Lankford - Direct

[10.]

2 what it was, whether I had to have something to pick
3 the car up or what.

4 Q Something in the nature of an
5 identification for you as a person?

6 A Yeah, un-huh.

7 Q Do you recall how you were paid,
8 check or cash?

9 A I'm pretty sure it was cash.

10 Q Weekly or after each job?

11 A It was just, you know, as soon as
12 we'd come back in, why, you know, they'd --

13 Q (Interrupting) Do you recall --

14 A (Interrupting) Now, wait a minute.
15 I think the one time we had to wait till the, you know,
16 whoever was in charge, you know, would come in, you
17 know, and take care of that.

18 Q Do you mean at Louisville?

19 A Yes, un-huh, right.

20 Q Do you know how the amount of
21 compensation was fixed?

22 A So much a mile. So -- I think it
23 was -- then it was six or seven -- I'm not sure --

24 Q (Interrupting) Was that negotiated
25 or --

1 Lankford - Direct

[11.]

2 A (Continuing) -- cents a mile.

3 Yeah. They would tell you so much a mile.

4 Q You didn't have any negotiation;
5 they just told you how much it was, take it or leave
6 it?

7 A Yeah.

8 Q Were you paid or reimbursed for
9 any of the expenses, the tolls or the bus to
10 Carbondale?

11 A Now, wait a minute. Now, I might
12 have been paid for the bus. I believe I was paid.
13 And I'm not sure about the pass. You see, we had to
14 pay so much -- I think it was \$2.00 -- service charge
15 on the pass.

16 Q How about gas and oil or any tolls?

17 A Well, they took care of that.
18 They took care of all the gas and oil. We didn't worry
19 about anything. If you had to put any gas in, why,
20 you'd just keep the receipt and get it then. But
21 usually they had a -- I think one time -- I'm not sure
22 -- it was only about three-quarters of a tank, or
23 something, maybe less than that, and we had to put a
little gas in. But that...

24 Q Were you given any specific route

[12.]

1 Lankford - Direct
2 to follow?

3 A No, no specific route.

4 Q Specific time to be back?

5 A No, no specific time.

6 Q Could you use the car for personal
7 purposes on the way, carrying something or bringing
8 something back with you?

9 A Well, I guess if you wanted to you
10 could.

11 Q Did anybody say anything about that
12 that you could or could not do it?

13 A No, nobody, no.

14 Q Was the mileage checked at either
15 end?

16 A Yeah. We had to check our mileage.

17 Q Did you do it yourself or did
18 somebody else?

19 A No; we done it ourselves.

20 Q Do you recall any kind of
21 instructions or information given to you by Avis when
22 you did the shuttling, what to do or where to go, --
23 well, not where to go; you'd know that.

24 A Well, they'd tell us where to go
to pick up the car.

1 Lanford - Direct

[13.]

2 Q Any instructions besides where the
3 car was?

4 A No.

5 Q Did they tell you what would
6 happen if you got a speeding ticket?

7 A Well, I imagine -- they didn't say
8 anything about it, but I imagine if you done that, you
9 had to take care of it yourself.

10 Q How about a parking ticket or any
11 other kind of ticket?

12 A Well, they didn't tell us anything,
13 no, anything specific like that.

14 Q Did they give you any instructions
15 to follow in case the car broke down?

16 A No, no.

17 Q Did you get any instructions in
18 case you had an accident?

19 A No, not that I recall.

20 Q Do you know whether you were
21 covered by auto insurance, liability insurance, when
22 you were driving the car?

23 A Do you mean with them?

24 Q Yeah.

25 A Oh, I would imagine. They were

Lenkford - Direct

[14.]

covered with insurance. Yeah, we --

Q (Interrupting) How about you personally for personal injury?

A Oh, yes, un-huh.

Q Did anybody tell you that or --

A (Interrupting) No, no.

Q Did anybody tell you you were not?

A No (Laughter). No.

Q Do you know whether Social Security or unemployment taxes or withholding taxes were taken out of the amounts paid you?

A No, I sure don't. But I don't -- I couldn't say.

Q Do you recall if anything was ever said to you about payroll deductions in these amounts?

A Payroll deductions?

Q Such as Social Security and withholding tax and such as that?

A No.

Q Do you recall whether or not you included the amount of compensation in your own return for these years?

A How was that, now?

Q Do you recall if you included the

1 Lankford - Direct

[15.]

2 amount they paid you in your own return for these years?

3 A No. I'd have to check. Well, I
4 wouldn't check that far back (Laughter).

5 Q Do you know anybody else who acted
6 as a shuttler during that period? We know Mr. Howser.

7 A Yeah, un-huh.

8 Q Besides him?

9 A Well, I know some --

10 Q (Interrupting) Either airline
11 employees --

12 A (Interrupting) That's airline
13 employees, I know that, un-huh. But I couldn't, you
14 know...

15 Q Do you know anybody else who was
16 not an airline employee --

17 A (Interrupting) Do you mean --

18 Q (Continuing) -- who did the
19 shuttling?

20 A Other than airline employees?

21 Q Yeah.

22 A No. That's the only ones I know
23 that --

24 Q (Interrupting) Do you know of any
25 full-time employees of Avis, such as the counter

1 Lankford - Direct

[16.]

2 people or mechanics, something like that, that worked
3 in shuttling?

4 A That done any shuttling?

5 Q On the same basis as you did?

6 A No, no, I don't think. I was
7 talking to one, and they said they wouldn't let them
8 do it.

9 Q Do you recall at this point who it
10 was that said that, who you were talking to?

11 A Oh, who was that? What's his name?
12 I have to think. I can't think of his name right off.
13 I'd have to --

14 Q (Interrupting) Do you remember
15 what his position was or where he worked with Avis?

16 A Well, I think he worked as -- what
17 do you -- clean the cars, you know, they used to clean
18 the cars up.

19 MR. LAYTON : Service Agent?

20 THE WITNESS : Yes, service --
21 I guess that's what they call them.

22 Q Do you ever recall seeing any
23 advertisements for shuttlers in local newspapers,
24 anything of that sort?

25 A No, never have. No, humh-uh.

1 Lankford - Direct

[17.]

2 Q Do you recall the last time you
3 did any shuttling?

4 A That one to Carbondale was the
5 last time, I know that.

6 Q Whenever that was?

7 A Whenever it was.

8 Q Did you get any kind of training
9 at all to be a shuttler?

10 A No kind of training, no.

11 Q Any written, oral instructions or
12 any other information given to you?

13 A None.

14 Q When you pick up a car, do you
15 recall if you got anything besides the keys and
16 registration, any other kind of documents or something
17 of that sort?

18 A No; only the keys.

19 Q Do you know whether you were
20 covered by health or accident insurance maintained by
21 Avis while you were driving the car?

22 A Well, they didn't -- if they did,
23 they didn't tell us. We was just under the assumption,
24 you know, that we were.

25 Q How about any other fringe benefits

1 Lankford - Direct

[13.]

2 or Workmen's Compensation or anything like that?

3 A No.

4 Q Did you ever file any claim for
5 anything like that with Avis?

6 A No, no.

7 Q Do you know of anybody else that
8 has?

9 A No, I sure don't.

10 Q Do you know whether anybody who
11 shuttled for Avis frequently was given any preference?

12 A No.

13 Q Did you ever have to share any
14 part of your fee or compensation for shuttling with
15 anybody else?

16 A Nobody else, no.

17 Q Anybody ever approach you to do
18 that?

19 A No.

20 Q Do you know whether there was a
21 foreman, head shuttler or someone like that who
22 controlled the shuttling operation for Avis?

23 A No. We just checked, you know,
24 checked with the girls or whoever, you know, that was
25 on the counter.

1 Lankford - Direct

(19.)

2 Q Was there any one specific person
3 you would talk to that would know whether or not there
4 was a car somewhere?

5 A No. We would just, you know, check
6 with them periodically and see if they had a car.

7 Q No one particular person?

8 A No, no one in particular.

9 Q Did you have any kind of
10 identification or badge or card or something to identify
11 you?

12 A Well, the only thing we had was
13 our TWA card.

14 Q Anything from Avis?

15 A Yeah -- no, not from Avis.

16 Q Except that one time you had some
17 kind of a note for Carbondale?

18 A Yeah. But I can't think of what
19 that was. Now, I know I had some kind of -- whether
20 it was a note or something, now, I can't -- can't
21 recall.

22 Q Do you know what records, if any,
23 Avis maintained to show the days or amounts of
24 payments made to you or other shuttlers?

25 A Records they kept?

1 Bankford - Direct

[Ex.]

2 Q Un-huh.

3 A No, I sure don't.

4 Q Do you recall if you were required
5 to sign a receipt for payment?

6 A Yeah. I think we signed something
7 for a receipt of payment, I think.

8 Q Do you recall what that looked like?

9 A What was that thing?

10 Q Was it a printed --

11 A (Interrupting) If I could see
12 something, you know, some of the records, I could tell
13 you. But I --

14 Q (Interrupting) Was it a printed
15 form or petty cash, or something like that?

16 A I believe -- yeah, it was something
17 there you go. I believe it was something like a petty
18 cash slip, if I'm not mistaken.

19 Q Did you sign that?

20 A Sure did.

21 Q Do you remember if anybody from
22 Avis signed it or initialed it?

23 A Well, I don't know if they did or
24 not while I was there.

25 Q Do you recall if there was any list

1 Lankford - Direct

[21.]

2 of identifying numbers or symbols or anything like that
3 on it?

4 A No. I'm pretty sure it was petty
5 cash, if I'm not -- if I'm not mistaken.

6 Q Do you remember if it had any
7 identification numbers on it, either put on at the
8 time or already on there?

9 A Now, I know over at work, you know,
10 we have numbers on our petty cash things. But I -- I
11 don't recall any numbers.

12 Q To your knowledge was any
13 individual who has shuttled cars for Avis in the past
14 been refused or not allowed to do it again for any
15 reason?

16 A No.

17 Q Was the need for shuttlers by Avis
18 a regular thing, or did it only occur at certain times,
19 peak times?

20 A You know, at certain times, whenever
21 they had cars.

22 Q Was there a regular peak?

23 A Well, I would imagine after a
24 convention or something like that, you know, there
25 might be need, you know.

1 Lankford - Direct

[22.]

2 Q Did you ever drive as a shuttler
3 for any other rental agency, like Hertz or National?

4 A Now, we drove one other time, and
5 that was right after I went to work over there. It
6 wasn't too long. But I -- I couldn't say what -- which
7 one it was now. It might have been National. But I --
8 I won't -- I won't say. I think we had National and
9 Hertz and Avis. I think that's about the only three
10 they had over there at the time.

11 Q That's all I have.

12 MR. LAYTON : Just a couple
13 of questions, Mr. Lankford.

14 ***

15
16 CROSS EXAMINATION BY MR. ROBERT LAYTON

17
18 MR. LAYTON : That time when
19 you can't remember whether it was National, it was
20 some company other than Avis that you did do a shuttle
21 trip for?

22 MR. LANKFORD : Un-huh, un-huh.

23 Q Is that right?

24 A Right.

25 Q And Mr. Hipple asked you a couple
of questions about health or accident insurance. I

1 Lankford - Cross

[23.]

2 wonder if I could clear that up for a minute. During
3 the period of time we're talking about, you were an
4 employee of TWA?

5 A Right.

6 Q And you were covered for health
7 insurance by TWA during that period?

8 A Right.

9 Q Was that a Blue-Cross or Blue-Shield
10 plan, or something like that?

11 A Connecticut General Life.

12 Q Connecticut General Life?

13 A Right.

14 Q Now, let's say I'm talking about
15 that kind of plan for a moment, --

16 A (Interrupting) Oh, un-huh.

17 Q (Continuing) -- and we're asking
18 about that one trip when you're moving a car from
19 Carbondale or St. Louis to Louisville?

20 A Un-huh.

21 Q Were you under the impression that
22 for that period of time you were under Avis' health plan

23 A But when we did -- where we did do
24 that, rather than jeopardize our job with TWA, we were
25 given permission from our Station Manager to do so.

1 Lankford - Cross

[24.]

2 Q Oh, your TWA Station Manager?

3 A Said it was all right for us to
4 do this.

5 Q That it was all right for you to
6 do so?

7 A Right, un-huh.

8 Q Okay. But you don't have any
9 knowledge, one way or the other, as to whether you
10 were covered for any illness or sickness that you or --
11 or any Workmen's Compensation injury you might have
12 incurred while driving that car?

13 A No.

14 Q You don't have any knowledge?

15 A No.

16 Q Okay. Were you aware during this
17 period of time of any other airline personnel, I mean
18 personnel working for other airlines located in the
19 airport, who did similar shuttling for Hertz or Avis?

20 A Un-huh.

21 Q You were?

22 A Right.

23 Q Was it a common practice?

24 A Right, it was a common practice,
25 un-huh.

1 Lankford - Cross

[25.]

2 Q That's all.

3 A Quite a few of the guys would, you
4 know, shuttle, un-huh.

5 Q No further questions.

6 MR. HIPPLE : I have nothing
7 further.

8
9 (WITNESS EXCUSED)

10 ***

1
12 [Reporter's Certificate omitted in duplicating]
13
14
15
16

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

- - -

AVIS RENT A CAR SYSTEM, INC., :

Plaintiff, :

vs. :

No. 70-C-70

UNITED STATES OF AMERICA, :

[Filed July 27, 1973]

Defendant. :

- - -

DEPOSITION OF MICHAEL N. COPELIN, witness herein,

called by the Defendant pursuant to the Federal Rules of Civil Procedure pertaining to the taking of depositions for the purpose of discovery, and for use at trial, taken before Anne V. Thompson, a Notary Public within and for the Commonwealth of Pennsylvania, at 9:30 A.M., Tuesday, February 20, 1973, at the law offices of the United States Attorney's Office, 633 United States Court House, Pittsburgh, Pennsylvania 15219.

- - -

1 APPEARANCES:

2 ROBERT B. LAYTON, ESQ., Gilbert, Segall and
3 Young, 405 Park Avenue, New York, New York 10022, appearing
4 on behalf of the Plaintiff.

5 ROBERT J. HIPPLE, ESQ., Tax Division, Department
6 of Justice, Washington D.C., 20530, appearing on behalf of the
7 Defendant.

8 - - -

9 STIPULATION

10 It is hereby stipulated and agreed by and
11 between counsel for the Plaintiff and counsel for the
12 Defendant and the witness that the inspection, reading and
13 signing of the deposition may be and are waived.

14 - - -
15
16
17
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19
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21
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23
24
25

1 MR. LAYTON: I reserve objections, ex-
2 cept to the form, until the trial.

3 - - -

4 MICHAEL N. COPELIN

5 of lawful age, and being first duly sworn to testify to the
6 truth, the whole truth, and nothing but the truth, as herein-
7 after duly certified, testified on his oath as follows:

8 EXAMINATION

9 BY MR. HIPPLE:

10 Q State your name and current address.

11 A Michael N. Copelin, 1411 Ivywood Drive, Allison
12 Park.

13 Q What is your occupation?

14 A I am office manager for Avis Rental Car.

15 Q How long have you been employed by Avis?

16 A It was December of 1964, December 23 or 24.

17 Q Were you employed prior to 1964?

18 A Yes.

19 Q Where was that?

20 A A & P Tea Company.

21 Q Were you employed in any capacity or associated
22 in any capacity prior to 1964?

23 A In form of employment?

24 Q Yes.

25 A No, as an employee, no.

1 Q Any other capacity?

2 A I shuttled cars.

3 Q When was that?

4 A I believe it was in 1963. Yes, that is when I
5 started.

6 Q Was that here in Pittsburgh?

7 A Yes.

8 Q Describe what you did as a shuttler in the 1963
9 period.

10 A Well, we would drive cars from one Avis location
11 to another.

12 Q Is that within Pittsburgh or outside of Pittsburgh?

13 A Generally, it was from Pittsburgh to the airport,
14 or to Youngstown, various cities in the area.

15 Q Did you ever go any further than from here to
16 the airport?

17 A Surely.

18 Q What is the farthest trip that you personally
19 took?

20 A It really would probably be like Cleveland or
21 some place like that. I could not say for sure.

22 Q To the best of your recollection, how often did
23 you act as a car shuttler?

24 A Well, it was not on a regular basis. It could
25 be a couple times a week.

1 Q How did you first find out about this shuttling?

2 A A friend of mine used to do it.

3 Q He was a shuttler?

4 A He was a shuttler.

5 Q Do you recall his name?

6 A Jerry Beck.

7 Q Did he call you about it?

8 A He was a friend of mine and told me that it was
9 an opportunity to make some money.

10 Q Do you recall when you first talked to somebody
11 at Avis about it?

12 A I don't recall that I really did. It was very
13 informal.

14 Q How did you get the first shuttling contract
15 that you had, to the best of your recollection?

16 A I think Mr. Beck said there is some cars in
17 Youngstown or some place, and we could go pick them up and get
18 paid an amount of dollars, and that is what I did.

19 Q Do you recall dealing with anyone at Avis?

20 A Somebody at Avis used to pay us.

21 Q Was Mr. Beck employed by Avis full time at that
22 time?

23 A I don't think he was when I first started shut-
24 tling. He was a shuttler also.

25 Q Did anyone besides Mr. Beck explain to you the

1 shuttling procedure?

2 A No, it was relatively simple, drive a car, and
3 get paid for it.

4 Q Do you recall having to fill out any forms of
5 any kind to do shuttling?

6 A Forms very similar to that.

7 Q I mean prior to the first time you shuttled a
8 car, was there any type of information form or personnel form?

9 A No.

10 Q Do you know whether or not Avis kept a list of
11 shuttlers?

12 A I don't know as they did.

13 Q You had made reference to a document. Would
14 you examine Defendant's Exhibit A and identify it if you can?

15 A It is similar in nature. It may be even the
16 same thing. They change from year to year. This is similar
17 to the form which we had used to account for the mileage on the
18 cars.

19 Q Did you sign a document similar to that when
20 you shuttled a car?

21 A Yes.

22 Q Each time you shuttled a car?

23 A Right. There was one for each car.

24 Q Was the purpose of that document vehicle trans-
25 fer contract explained to you?

1 A Right. That is what you use to account for
2 while you had the car and what you were doing with the car.

3 Q Was it explained to you by anyone at Avis?

4 A As I recall, it was the idea to fill it out so
5 you would get paid.

6 Q When you first started shuttling or at any time
7 you shuttled cars, were you ever asked for your Social Security
8 number?

9 A No.

10 Q Driver's license?

11 A I think they wanted to make sure I had a driver's
12 license.

13 Q Do you recall if it was checked more than once
14 or just the first time?

15 A No, because I was new. I don't remember who it
16 would have been who asked.

17 Q Were you ever asked about your driving record?
18 Do you know if that was looked into?

19 A Not at that time. As a regular employee, it was.

20 Q But as a car shuttler?

21 A No.

22 Q Were you ever asked for your home address and
23 telephone number? Again, this is by someone employed by Avis?

24 A I don't know about the address, but I think they-
25 be the phone number, because if they needed somebody -- I don't

1 know if it was given to another shuttler or the office manager,
2 but it seemed somebody did have the phone number.

3 Q Were you asked for references of any kind?

4 A No.

5 Q Were you asked about your personal insurance
6 coverage, auto insurance coverage?

7 A No.

8 Q Was there any kind of interview before you could
9 shuttle cars the first time?

10 A No.

11 Q Would you describe, the best you can recall,--
12 I know you will have a little difficulty since you are work-
13 ing full time with Avis now-- the general steps that took
14 place when you shuttled cars in 1963, from the time you first
15 contactd Avis until driving the car to the destination.

16 A What activity did we do?

17 Q Yes.

18 MR. LAYTON: What happened when you
19 went, how does the job function?

20 BY MR. HIPPLE:

21 Q You were either contacted, or Avis contacted
22 you, or you called them and they said they had a car to move.
23 from that point.

24 A The car would be at the then Sixth Avenue loca-
25 tion. We take these cars to the airport. O.K. Fill out one

1 of the forms, get the car, drive it to the airport at the Avis
2 lot, note the mileage on the contract, and leave a copy there.
3 I think, and then either get into a bus or everybody would get
4 in one car and come back to town, and get more cars, or go
5 somewhere else and get more cars, and take them to the air-
6 port. It could be the reverse, depending on where the cars
7 were needed.

8 Q When you got to the destination, who did you
9 check in with then?

10 A We generally pulled them into a large fenced-in
11 area.

12 Q Did you tell anybody the car had arrived?

13 A No. I believe we left a copy of the contract
14 in the small office.

15 Q At the destination?

16 A At the destination, right, so they could ac-
17 knowledge receipt of the car.

18 Q Now, if you drove a car out to the airport, you
19 mentioned you might take a bus back. Who would pay for the
20 bus back to town?

21 A We would be reimbursed for the bus, because it
22 was transportation back.

23 Q Do you recall if the general procedure was ever
24 changed?

25 A The bus operation was too cumbersome and time

1 consuming if you had a lot of cars to move, so they would try
2 to have everybody working on the same time basis so that every-
3 one could get into one car and drive back.

4 Q How would you be paid, cash, check?

5 A It was cash.

6 Q Do you know how the amount of compensation was
7 fixed?

8 A There was a set price list of the value of the
9 trips.

10 Q Was that on a per mile basis?

11 A It was based on a per mile basis. It was based
12 on that.

13 Q Was it a flat amount to drive from the airport
14 to town?

15 A Right, that would be a fixed amount.

16 Q Did you have an idea how that was fixed?

17 A At the time, I did not know how they fixed it.

18 Q You were just told how much you would get?

19 A Right.

20 Q Did that amount include tolls, gas, and oil?

21 A We were reimbursed for tolls, gas, and oil. all
22 expenses for driving the car. in addition to the flat fee.

23 Q Would you be given a specific route to follow?

24 A No.

25 Q Were you given a specific time to be there?

1 A I don't recall as we were given a specific time.
2 It was assumed you just take the car there and drive it.

3 Q Do you recall an occasion, either in your own
4 case or somebody else's, that a shuttler arrived with a car
5 substantially later than he would have been expected for the
6 trip?

7 A The only delays were generally somebody got lost,
8 say on a first trip to Youngstown, a flat tire, or ran out of
9 gas.

10 Q Was anything said about these delays?

11 A Everybody was upset because we were waiting for
12 this person.

13 Q I mean anyone at Avis?

14 A Generally, it was the time to fix a tire, twenty
15 minutes. I don't recall anybody being eight or six hours late
16 or anything. It was always a very short period of time.

17 Q Were you allowed to use the car for personal
18 purposes on the way?

19 A No.

20 Q You say no. Was this by under direction?

21 A We were told the cars were not to be used. You
22 were not allowed to pick up hitchhikers, run to the store,
23 go home and eat lunch. It was strictly driving the car.

24 Q Do you recall who it was that said that?

25 A I could not tell you the individual exactly.

1 was the office manager, probably, somebody in authority at the
2 rental office.

3 Q Could you tell me who checked the mileage on the
4 car on either end of the trip?

5 A On the originating end, these were generally
6 picked up at the Avis location, and the responsible party
7 there would usually fill the form out.

8 Q Do you mean an office manager or station manager?

9 A Right, the rental agent, or the agent on loca-
10 tion, or an agency operator at the gas station. If it was
11 at the Pittsburgh airport location, we would fill in the mile-
12 age, and turn the slips over, or call them in to somebody.

13 Q You mean the mileage?

14 A Right. We had to call all the information in
15 to the rental counter at the time, and tell them we got this
16 car in, and this is the mileage, and this is the license
17 plate, and they would record that information so they could
18 rent the car to a customer.

19 Q Do you recall any specific instructions, or ad-
20 vice, or information given to you by somebody at Avis at the
21 time you left with the car, how to go, where to go, what to do,
22 anything of that nature?

23 A It was always taking the car to the airport or
24 taking cars to Butler. That was it.

25 Q Just the destination?

1 A Yes, make sure you get there.

2 Q Did you ever get a speeding ticket, or any kind
3 of traffic violation, a moving violation on the highway?

4 A Not that I can recall.

5 Q Do you know what would happen if you did?

6 A If I got a speeding ticket?

7 Q Yes, as far as Avis was concerned?

8 A I know of people who got tickets while driving
9 for Avis. It was their responsibility.

10 Q How about a parking ticket?

11 A Well, I don't see where a parking ticket would
12 enter into it.

13 Q You don't know of a specific instance?

14 A If you were Downtown and parked the car, I imagine
15 you would get a parking ticket, but I don't remember anyone
16 getting that.

17 Q What would happen if the car did break down?

18 A If somebody saw you and picked you up, then you
19 would call in to whichever station was closest, and they
20 would advise everyone else.

21 Q Were you given a list of local stations?

22 A No, we were not given a list. We learned where
23 they were from going there.

24 Q Did you have a list of telephone numbers?

25 A No.

1 Q Were you given any kind of specific explanation
2 of who to call or where to go?

3 A Just survival of the fittest.

4 Q How about if you had an accident, was there any
5 procedure explained to you?

6 A If you had an accident, you are told to report
7 it to the Avis station.

8 Q To anyone in particular?

9 A Well, it would probably be the Downtown loca-
10 tion, the office manager. That is where we would get paid,
11 out of that office. That is where we start, usually.

12 Q Was this procedure explained to you or is that
13 something you learned somehow? What did you do in case of an
14 accident?

15 A I don't believe it was explained per se. It was
16 just something that you learned as you went along.

17 Q Do you know whether or not you are covered
18 auto insurance while you are driving a car?

19 A The cars were covered for insurance, I am sure
20 of that.

21 Q By Avis?

22 A By Avis.

23 Q Do you know whether or not you were covered
24 personal injury for yourself or somebody?

25 A As I recall, the only thing I knew is I asked

1 that if I wrecked the car, would I have to pay for it, and he
2 said, "No, it is insured."

3 Q You don't know what would happen in the case of
4 bodily injury to you or somebody else?

5 A No.

6 Q Did you have auto insurance yourself, at the time?

7 A Yes, I believe I did.

8 Q You indicated that you asked somebody what would
9 happen if you had an accident. Somebody explained the cover-
10 age on the car. They said the car had insurance?

11 A I recall that.

12 Q Do you recall if Social Security, or withholding
13 taxes, or unemployment taxes were taken out of your pay?

14 A No, it was a flat rate.

15 Q Did you include the amount that was paid to you
16 on your own Income Tax, do you recall?

17 A Did I?

18 Q Yes.

19 A Well, could I qualify it?

20 MR. LAYTON: I should make clear, that
21 is not an issue in this case at all, and my own
22 opinion is that you don't have to answer that
23 question if you don't want to.

24 MR. HIPPLE: Let us go off the record.

25 - - -

1 (Discussion off the record.)

2 - - -

3 MR. HIPPLE: Back on the record.

4 BY MR. HIPPLE:

5 Q Do you recall if anything was said to you in
6 1963 while you were shuttling, about these payroll deductions?

7 A No, it was understood that I was driving the
8 cars, not as an employee of Avis, but as my own self contractor.
9 Any taxes and so forth were my responsibility.

10 Q Was that understood by somebody that has said
11 that to you or was that word of mouth by other shuttlers?

12 A Most procedures were established from the other
13 shuttlers.

14 Q Do you recall anyone at Avis specifically men-
15 tioning this to you?

16 A I don't really recall the particular individual.
17 Most of what I am recalling, as I remember it, was just from
18 the other shuttlers.

19 Q Were the terms of the contract, the shuttle
20 contract Exhibit A, ever explained to you in detail?

21 A Not as I recall. I have read it on several
22 occasions.

23 Q Did you yourself or do you know of any indi-
24 vidual who refused to sign the shuttle contract?

25 A No.

1 Q Do you know anyone besides Mr. Beck who shuttled
2 cars during that period of time?

3 A Oh, boy. Specifically, I recall -- do you want
4 a list of names or if I recall some other people? I do re-
5 call other people.

6 Q Could you estimate approximately how many people
7 were shuttling at that time?

8 A In the group with me?

9 Q Either the group with you or total, if you have
10 any idea.

11 A It varied from, I would say, two people to six,
12 or seven.

13 Q Was that in your group?

14 A That is all I recall of the people.

15 Q Can you think of any specific names of the
16 people?

17 A Yes.

18 Q Would you give us a few?

19 A Jerry Beck, Robert Vance.

20 Q Do you know where he is now?

21 A I have no idea. Bob Reece, Tommy Wyman.

22 Q Do you know where he is?

23 A I have no idea.

24 Q Do you remember Nick Zatzelo?

25 A I have heard of him.

1 Q Do you know if any of the people you mentioned
2 or anyone else who shuttled at that time who was a full time
3 employee of Avis, the office manager, clerical personnel?

4 A I don't know if anybody who ran cars, when I
5 started, was an employee. Several, later, became employees
6 like myself, but at the time, I don't think there was.

7 Q Do you recall any type of training that you were
8 given?

9 A No.

10 Q Any written or oral instructions of any kind?

11 A The procedure, that is all.

12 Q Do you recall what you were given when you got
13 the cars? You got the keys and the registration, anything
14 else?

15 A This transfer ticket, it was called.

16 Q Do you know whether or not you were covered by
17 health and accident insurance at Avis?

18 A I don't know.

19 Q Workmens Compensation?

20 A No.

21 Q Any other fringe benefits?

22 A No.

23 Q Did you ever file a claim for Workmens Compensa-
24 tion or anything of that nature?

25 A No.

1 Q Do you know of anyone else who did?

2 A No.

3 Q Was anyone who shuttled cars previously given
4 any kind of preference as to shuttling in the future?

5 A No.

6 Q Were you required or approached to share part
7 of your fee with anyone else?

8 A No way.

9 Q Was there a foreman or head shuttler?

10 A No.

11 Q How were you contacted, after the first time you
12 shuttled, for future shuttling?

13 A Usually it was Mr. Beck.

14 Q Were you ever called personally to come in?

15 A Probably by one of the shuttlers. That is gen-
16 erally who did it. We would go down to Sixth Avenue to see if
17 there was any cars needed shuttling. If they needed more
18 people, then we would call someone else.

19 Q As far as you know, there was no set procedure
20 at Avis of having the name of the specific individual who
21 provided shuttlers or the name of the shuttler?

22 A I think they were just interested in getting
23 the cars moved.

24 Q Were you given any type of identification or
25 badge to identify yourself?

1 A No.

2 Q You indicated before that you recall that your
3 license was only checked the first time. Were you given any-
4 thing to indicate that you had shuttled in the past and did
5 not have to get your license checked again?

6 A No.

7 Q Do you recall if Avis maintained any kind of
8 records to show the date, and route, and purpose of the pay-
9 ments to shuttlers? This is while you were shuttling, not
10 the office manager.

11 A The records they kept would be this account for
12 the mileage and to verify they paid.

13 MR. LAYTON: You are referring to
14 Defendant's Exhibit A?

15 THE WITNESS: Right.

16 BY MR. HIEBLE:

17 Q Were you required to sign any kind of receipt
18 for payment?

19 A Yes, the petty cash reimbursement slip or some
20 thing like that.

21 Q Could you describe that, to the best of your
22 recollection?

23 A It was about a two by five sheet which said,
24 "Petty cash receipt." I guess that is about it. It had the
25 amount and you signed your name.

1 Q Was there any kind of number or other identifi-
2 cation on it?

3 A No.

4 Q Did anybody else sign it or initial it at Avis?

5 A Maybe subsequent to my signature, I don't know.

6 Q Would you have any knowledge of why those petty
7 cash slips would show a number, an I.D. number on them?

8 A Why they would?

9 Q Yes.

10 A I don't know as they would.

11 Q To your knowledge, you never saw any kind of a
12 number?

13 A Do you mean as a sequential number or account-
14 ing number?

15 Q Yes.

16 A They would have the price or the total fees of
17 the slips that you supplied. Maybe they had an account num-
18 ber coded on them too.

19 Q Was this a pre-printed form?

20 A It was a blank form, signed here, (indicating)
21 and this is receipt for payment.

22 Q Do your knowledge, was any individual who had
23 shuttled cars for Avis in the past refused and not allowed to
24 do so again?

25 A I think that somebody, an individual -- there

was an occasion when an individual was told he could not run anymore.

Q Would you explain the circumstances of that particular individual that you just mentioned?

A The one incident that I recall. this individual tried to steal one of the cars after everybody else had gone home. Naturally, they told him, "Don't come back,"

Q This was something he was told specifically or he just never showed up again?

A I think he was apprehended, when somebody at Avis saw him trying to drive away a car.

Q Was the need for shuttlers a regular thing or did it peak at certain times like on weekends?

A It seemed to me that Mondays were patterned. It was established an active pattern. Monday, Tuesday, and Friday and Saturday, something like that.

Q Were you employed elsewhere while you were acting as a shuttler?

A Yes, I worked for the A & P Tea Company.

Q You indicated you are now office manager?

A Right.

Q What position did you have when you first joined Avis full time?

A I was a service agent.

Q And in that capacity, did you have any dealings

1 with the shuttlers?

2 A Directly with the shuttlers?

3 Q Yes, directly.

4 A No.

5 Q Could you trace what jobs you have had since
6 then?

7 A Since service agent?

8 Q Right.

9 A Rental agent, car control, agency manager, claims
10 representative, and office manager.

11 Q In any of those positions, did you deal with the
12 car shuttlers?

13 A Yes.

14 Q Would you describe how and in what way you dealt
15 with them?

16 A As a rental agent.

17 Q First of all, we have got to specify what period
18 of time we are talking about, to the best of your memory.
19 Years are probably good enough.

20 A Just up to now or up to 1966 or 1970?

21 Q Let's go with 1966.

22 MR. LAYTON: You are talking now about
23 when you were a rental agent?

24 THE WITNESS: Right, that was the
25 area when I believe I was a rental agent, from

1 the end of 1965 until the end of 1966.

2 EY MR. HIPPLE:

3 Q Could you describe the contact with the shuttlers
4 during that period?

5 A I would be responsible for filling out the forms
6 and also paying the shuttlers.

7 Q In dealing with shuttlers, had you ever asked one
8 of them for a license or any other information?

9 A A driver's license, no.

10 Q Did you generally know most of the people who
11 were shuttling?

12 A Right.

13 Q Do you recall an occasion when there was a new
14 face?

15 A Generally, a new face accompanied an old face.
16 It was sort of bring someone along who you knew, to shuttle
17 cars.

18 Q Do you recall any set procedure or instructions
19 given to you as a rental agent, for handling shuttlers, the
20 procedure to follow?

21 A Well, if cars were to be moved, and I was gen-
22 erally told of these cars taken to the airport, and the
23 shuttler who was going to the airport filled out the forms
24 and said, "See you later." The keys are in the car.

25 Q Did you ever need a car? What do you do in a

1 situation if you were short of cars?

2 A Either the office manager, I mean the stationary
3 manager or the control manager generally handled the move of
4 cars, if the cars were brought in, and then I would prepare
5 another form based on this information, so I would have the
6 information for renting a car to the customer.

7 Q At that period of time, you did not make a de-
8 cision to have the car moved or make arrangements?

9 A On several occasions.

10 Q How did you arrange to have the car moved, was
11 there a number you called or a person you contact?

12 A I knew most of the people. I probably had a
13 list somewhere in a phone book, Jerry Beck's phone number or
14 Bob Reece's phone number.

15 Q Where was your location when you were a rental
16 agent?

17 A At 555 Sixth Avenue.

18 Q Downtown?

19 A Downtown Pittsburgh.

20 Q Do you recall when it was you became involved
21 or director of car control in Pittsburgh?

22 A The middle of 1966, right after being a rental
23 agent. The middle of 1966 or early 1967, I am not sure.

24 Q Did you deal with shuttlers on that basis?

25 A Yes.

1 Q Did that differ in any way from your dealing
2 with a rental agent?

3 A My job was to find out where the cars were and
4 where they were to be taken.

5 Q Where were you located then?

6 A Pittsburgh airport.

7 Q If you needed a car moved, how did you contact
8 or arrange for it?

9 A A pattern develops. Mondays, you would move
10 cars to the airport. Tuesday, you would move them to the
11 airport and for rental during the week, and there was usually
12 somebody available to shuttle cars. You call Downtown and
13 they would probably be sitting around drinking coffee.

14 Q Was there a specific place at the airport or
15 Downtown?

16 A Originally, it was the Downtown location.

17 Q Was this a facility that Avis provided?

18 A No.

19 Q Were they provided with a specific place to sit?

20 A No.

21 MR. HIPPLE: That is all I have.

22 MR. LAYTON: I have a couple of ques-
23 tions.

24

25

CROSS-EXAMINATION

BY MR. LAYTON:

Q Is it accurate to say that most of the shuttling was done by a group of shuttlers moving a group of cars?

A Not necessarily as a group, no. A volume of cars was generally moved at a specific time. On occasion, there would be one or two people Downtown.

Q Sometimes, just one car or two cars?

A Sure.

Q Sometimes there would be a whole group of cars?

A Six or seven people, right.

Q When six or seven people were moving cars, was there one person more in charge of the group of shuttlers than anyone else?

A No, there was no authority or command, no.

Q On occasion, did you use a shuttle car or a chase car?

A Sure.

Q And did the person who drove the shuttle car or chase car get back pay and an additional fee for doing that?

A No, what they did, one person would -- say I will drive the shuttle and everybody else would share on the driving.

Q Would they take turns?

A Right.

1 Q Did you receive any vacations while acting as a
2 shuttler?

3 A No.

4 Q Did you receive any fringe benefits, any pay-
5 ment for hospitalization?

6 A No.

7 Q Did you use a uniform? Were you given a uni-
8 form by Avis?

9 A No.

10 Q Did it become generally known as to what times
11 during the week it would be a good idea to turn up, if you
12 were interested in making some money?

13 A A pattern developed. Usually the early part of
14 the week, and the beginning, and end of the week, is the way
15 it was.

16 Q It was not always necessary for you to receive
17 a phone call?

18 A No.

19 MR. LAYTON: I have no other questions.
20 (Whereupon, at 10:20 A.M., the deposition was closed.)
21

22 - - -

23 * * * *

24 [Reporter's Certificate omitted in duplicating]
25

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

- - -

AVIS RENT A CAR SYSTEM, INC., :

Plaintiff, :

vs. :

No. 70-C-70

UNITED STATES OF AMERICA, :

[Filed July 27, 1973]

Defendant. :

- - -

DEPOSITION OF NICK ZATEZALO, witness herein,

called by the Defendant pursuant to the Federal Rules of Civil Procedure pertaining to the taking of depositions for the purpose of discovery, and for use at trial, taken before Anne V. Thompson, a Notary Public within and for the Commonwealth of Pennsylvania, at 10:45 A.M., Tuesday, February 20, 1973, at the law offices of the United States Attorney's Office, 633 United States Court House, Pittsburgh, Pennsylvania 15219.

- - -

1 APPEARANCES:

2 ROBERT B. LAYTON, ESQ., Gilbert, Segall and
3 Young, 405 Park Avenue, New York, New York 10022, appearing
4 on behalf of the Plaintiff.

5 ROBERT J. HIPPLE, ESQ., Tax Division, Department
6 of Justice, Washington, D.C. 20530, appearing on behalf of the
7 Defendant.

8 - - -

9 STIPULATION

10 It is hereby stipulated and agreed by and
11 between counsel for the Plaintiff and counsel for the
12 Defendant and the witness that the inspection, reading and
13 signing of the deposition may be and are waived.
14

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NICK ZATEZALO

of lawful age, and being first duly sworn to testify to the truth, the whole truth, and nothing but the truth, as herein-after duly certified, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. HIPPLE:

Q State your named and your current address.

A Nick Zatezalo, Z-a-t-e-z-a-l-o, 837 South Canal Street.

Q Your current occupation?

A I am a truck driver.

Q You are employed by Avis?

A No, Haser Trucking.

Q Were you employed during the period from 1962 to 1966?

A Yes, I was employed.

Q Were you employed on a full time basis with Avis during that period of time?

A No.

Q Did you ever act as a car shuttler for Avis?

A Yes, I did.

Q Do you recall what period of time that was?

A I imagine it was 1962, I guess. Then I got a job with Allen Derpen. They rented from Avis trucks, but I was actually an employee of Allen Derpen in 1963, I guess.

1 Q Would you explain what you did as a shuttler?

2 A We took and delivered cars to certain points.

3 There were certain places we took them.

4 Q Could you estimate how often you did it?

5 A Between ten or fifteen times.

6 Q Do you recall what areas you did it?

7 A I went to Erie. We used to run cars to the air-
8 port and back. I did go to New York a couple of times.

9 Q New York?

10 A Yes.

11 Q How did you find out about shuttling?

12 A I had a friend of mine. He is dead now. Mike,
13 he referred me. He got me to come down here. He died, he
14 got killed.

15 MR. LAYTON: He was a friend of yours?

16 THE WITNESS: Yes.

17 BY MR. HIPPLE:

18 Q Had he done shuttling in the past?

19 A He was what they called a desk man over there.

20 Q He was at Avis?

21 A Yes.

22 Q Do you recall how you got the first shuttling
23 contract that you had?

24 A How do you mean?

25 Q How did you find out about it, specifically?

1 A Through Mike.

2 Q Did he call you about it?

3 A Yes, he asked me if I wanted to.

4 Q Did you talk to anybody at Avis about it?

5 A No.

6 Q Was the shuttling procedure explained to you at
7 that time as to what to do?

8 A Not necessarily. No, because I used to go see
9 Mike and he would say to take so and so.

10 Q There was no specific explanation of what you
11 had to do?

12 A Not that I can recall.

13 Q Did you have to fill out any forms when you
14 shuttled cars?

15 A No, not fill forms out, no.

16 Q Do you know whether or not Avis kept a history
17 of people who shuttled cars for them?

18 A How do you mean by that?

19 Q Did they have a list of names of people who did
20 it, that they would call up?

21 A I don't know whether they had. They may have,
22 I am not that sure now.

23 Q Would you look at this Government Exhibit A.
24 Did you ever see one of those before?

25 A I am not sure if we had this same kind or not.

1 Q Did you see anything like that, something similar
2 to that?

3 A I think they had something that you signed, when
4 you delivered the vehicle.

5 Q Do you recall if it was something like that?

6 A It could have been. It has been so long, I am
7 not too good on it. I think it was over ten years, I believe.

8 Q Do you recall if the purpose of the document
9 like that, the transfer contract, was ever explained to you by
10 anybody?

11 A Well, just the way to fill it. That would be
12 about all.

13 Q Was it explained to you then?

14 A No. It was by one of the other fellows.

15 Q One of the other shuttlers?

16 A Yes.

17 Q When you started to shuttle for Avis, were you
18 asked for your Social Security number by anybody?

19 A Not that I can recall.

20 Q How about your driver's license?

21 A Oh, yes. You would have to have a driver's
22 license.

23 Q Did somebody ask to take a look at it?

24 A Not specifically.

25 Q How about your driving record, were you ever asked

about that by anyone at Avis?

A No.

Q How about your home or work address, or telephone number? Were you asked to supply that to somebody?

A Well, I think yes. They would have to have that to call me.

Q Was that somebody at Avis?

A When I first started, Mike, he knew me and my address, and my phone number, and he would call me.

Q Were you asked for any kind of references?

A No, sir.

Q Were you asked about your personal insurance, if you had any?

A No, sir.

Q Do you recall any kind of interview or anything like that?

A No.

Q Would you describe, the best you can recall, the general steps that took place when you shuttled cars, from the time you got it until the time you delivered it? How was it done?

A We just took the cars to a certain spot and dropped them off, and then we either had to come back by bus, or if they had a driver car, to bring us back, we would bring it back.

1 Q Did you sign a vehicle transfer contract or some-
2 thing like that?

3 A Yes, we would have to state that we delivered
4 the vehicles, right.

5 Q Do you recall how you were paid for this, cash
6 or check?

7 A It was cash.

8 Q Do you know how the amount was fixed?

9 A I think you have certain runs that they paid
10 so much just for the run, actually.

11 Q Did that include tolls, and gas, and things
12 like that?

13 A You had some expense money. They give you a
14 couple dollars.

15 Q You were paid a certain amount plus your expenses?

16 A No, you don't get your expenses paid. It was
17 more for the vehicle, that is all.

18 Q How about when you went to the airport and took
19 a bus back, who paid for the bus?

20 A Usually, when we went to the airport, we would
21 bring back a car or something. That is the reason they sent
22 us. If you would take a bus back, the company, I guess, paid
23 for that.

24 Q Were you given a specific route to follow, when
25 you had to deliver a car some place?

1 A Not necessarily. You just had to map it your-
2 self and go that way, or whatever.

3 Q Were you ever given a specific time in which to
4 get the car there?

5 A I would just say so you get it there.

6 Q The time you mentioned you went up to New York,
7 do you recall how you got back from New York?

8 A I brought a car back, I believe.

9 Q Did you drive a car up and bring a car back?

10 A Yes.

11 Q Were you allowed to use the car for personal
12 purposes on the way, to take a friend out to the airport?

13 A No, sir.

14 Q Did anybody tell you you could not do that?

15 A Well, you figured it for yourself. You would
16 not be able to do that.

17 Q Do you recall anyone specifically saying that
18 you are forbidden?

19 A You would not have been allowed.

20 Q Did anybody check the mileage on the car?

21 A The driver would, probably.

22 Q Do you recall doing it yourself?

23 A I think you would have to check the mileage,
24 yes, sir.

25 Q Do you recall any specific instructions or

1 information given to you when you drove a car, shuttled a car?

2 A Not that I can recall.

3 Q Do you know what happened if you got a speeding
4 ticket or moving violation?

5 A That would be your own fault.

6 Q Do you know of a case where this ever happened?

7 A No, sir.

8 Q Was it mentioned to you that it would be your
9 expense?

10 A No, actually, I don't think it was ever mentioned.

11 Q How about a parking ticket?

12 A I think you paid that yourself too. Anything
13 like that, you have to pay.

14 Q Was it explained to you what to do if the car
15 broke down on the way?

16 A Well, you would have to notify, call them back,
17 just give them a call.

18 Q Did they tell you where to call?

19 A You called back to where you left, from the
20 destination where you came from.

21 Q Is that all you were told, just call them and
22 they would tell you what to do?

23 A Yes, sir.

24 Q Were you advised what to do if you had an acci-
25 dent?

1 A Well, no. Actually, I never did, so it never
2 came to mind.

3 Q Nobody ever told you what to do in the event of
4 an accident?

5 A Just like any accident, I would have to call up.

6 Q Did they tell you to do that?

7 A No, not exactly.

8 Q Do you know whether or not you were covered by
9 auto insurance while you were driving?

10 A I don't know if I was or not.

11 Q Do you recall or know whether or not Social
12 Security, unemployment taxes, or withholding taxes were de-
13 ducted?

14 A Not, that I know of, sir.

15 Q Do you recall if you quoted in your Income Tax
16 the compensation that you were paid? Did you include that
17 amount in your Income Tax returns?

18 A No.

19 Q Was anything said to you about a payroll deduc-
20 tion?

21 A There was nothing said, actually, no, sir.

22 Q Do you know anybody else who acted as a car
23 shuttler during that period of 1962 to 1966?

24 A A few that was subpoenaed, I know them very
25 good.

1 Q You can't recall anybody else?

2 A No.

3 Q Did you know if any of the people who were
4 shuttling while you were doing it were full time employees
5 of Avis, such as mechanics or office personnel?

6 A They did have. Whether they have anybody there
7 now, -- a lot of them used to run a little bit.

8 Q Did you ever see any ads in the newspapers for
9 shuttlers?

10 A No, sir.

11 Q When was the last time you shuttled a car, if
12 you can recall?

13 A I am not sure. I can't think.

14 Q It has not been recently?

15 A It has been awhile. It has been a long time.

16 Q Did you receive any specific type of training
17 to do this?

18 A No.

19 Q Any written or oral instructions of what to do,
20 how to do it?

21 A No, sir.

22 Q Do you recall what you were given when you got
23 a car to drive?

24 A The keys and registration on the car.

25 Q Do you recall anything else that you were given?

1 A No, not that I know if, just the paper.

2 Q The contract?

3 A Yes, you put the miles down and that.

4 Q Do you recall who filled out the contract, the
5 transfer contract?

6 A You had to fill it out yourself.

7 Q It was a blank form and you had to fill it out?

8 A Yes.

9 Q And you put the license number on, so on and so
10 forth?

11 A Yes.

12 Q Do you recall who told you which car to take
13 where?

14 A Yes. Mike, he would do that. He would say to
15 take a car someplace and deliver it.

16 Q Do you know whether or not you were covered by
17 health or accident insurance?

18 A No, sir.

19 Q How about Workmens Compensation?

20 A No, sir.

21 Q Any other fringe benefits?

22 A No, sir, none at all.

23 Q Did you ever file a claim for anything like that?

24 A No, sir.

25 Q Do you know anybody else that did?

1 A I could not tell you, sir. I don't know.

2 Q Was anybody who shuttled frequently for Avis
3 given preference over anybody else?

4 A Not that I can recall, sir.

5 Q Were you ever required to share part of your
6 fee or compensation with anybody else?

7 A No, sir.

8 Q Were you ever approached to do that?

9 A No, sir.

10 Q Was there a foreman or head shuttler?

11 A No, I don't think. Not at that time that I was
12 there.

13 Q Did you have any kind of identification, or
14 badge, or uniform to identify you as a shuttler for Avis?

15 A No, sir.

16 Q Do you know what records, if any, were maintained
17 by Avis to show the date and the amount of payment to the
18 shuttlers?

19 A I could not tell you, sir, other than like I
20 said, we brought the car back.

21 Q What procedure did you follow when you brought
22 the car back?

23 A You just bring it and drop it off.

24 Q You just left it there and walked away?

25 A Dropped it off Downtown, where the office is.

1 Q Did you tell anybody?

2 A You go down and show the mileage and everything.

3 Q Was there a specific office you had to go to?

4 A Yes.

5 Q Was there a form or anything else that you had
6 to sign or fill in when you arrived?

7 A No, I don't think. I am not sure. I am trying
8 to think, to the best of my memory, but I don't think.

9 Q Did you have to bring a copy of the transfer
10 contract with you?

11 A What do you mean?

12 Q This piece of paper we have here, Exhibit A, did
13 you bring copies of that with you to show the mileage, the
14 make of the car, and so forth?

15 A Yes.

16 Q Do you recall where you had to take that?

17 A Just drop it off at the office.

18 Q The office at the destination?

19 A Yes.

20 Q Were you paid at the time you dropped the car off
21 or later on?

22 A Yes, when you come back.

23 Q Were you required to sign a receipt for payment?

24 A Probably that form that you signed when you
25 brought the car back or when you come back, then you get the

1 paper.

2 Q The form you signed when you came back, is that
3 the same form we have here, Exhibit A, or is it a different
4 form?

5 A I think it is one of these. I am not sure. I
6 am trying to think. I cannot think. I think it is one of these.

7 Q To your knowledge, was anybody who shuttled cars
8 for Avis in the past not allowed to do so again for some reason?

9 A Not to my knowledge.

10 Q Was the need for shuttlers regular every day?

11 A No, just a part time job.

12 Q Were there certain days?

13 A Yes, certain days.

14 Q You knew which days they were?

15 A I could not tell you.

16 Q Were you called by anybody at Avis, other than
17 the friend who worked there?

18 A Yes, I was.

19 MR. HIPPLE: That is all.

20 MR. LAYTON: I just have one or two
21 questions.

22 - - -

23 CROSS-EXAMINATION

24 BY MR. LAYTON:

25 Q The times that you went to New York, that was a

1 longer trip than your locals?

2 A Yes.

3 Q You got paid larger fees for that trip, didn't
4 you?

5 A Yes.

6 Q Do you remember about how many hours it was?

7 A Six or seven hours, I guess.

8 Q Did you arrange your own sleeping, if you had to
9 sleep over.

10 A Yes, anything other than eating and sleeping
11 would be arranged by yourself.

12 Q If you had a Turnpike toll, would you get a re-
13 ceipt for it?

14 A Yes, they would reimburse you.

15 Q If you showed that receipt for that toll?

16 A Yes.

17 Q And if you filled up the car with gas, you
18 would get a receipt for that, you would get reimbursed?

19 A Yes.

20 Q Did anybody tell you there was a specific amount
21 of time in which you had to make it up to New York?

22 A Actually, the reason this was not, because if
23 there would be an accident or something, if anything would
24 occur like that, -- this is what they tell us -- just you go
25 ahead as fast as you can, but the point is, you had to go fast.

1 cause the more money you spent on yourself, you would not be
2 getting anything. So we had to deliver them faster.

3 MR. LAYTON: Thank you very much.

4 I have no further questions.

5 (Whereupon, at 11:20 A.M., the deposition was closed.)

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

- - -

AVIS RENT A CAR SYSTEM, INC., :

Plaintiff, :

vs. :

No. 70-C-70

UNITED STATES OF AMERICA, :

[Filed July 27, 1973]

Defendant. :

- - -

DEPOSITION OF ROBERT BELLE, witness herein,

called by the Defendant pursuant to the Federal Rules of Civil Procedure pertaining to the taking of depositions for the purpose of discovery, and for use at trial, taken before Anne V. Thompson, a Notary Public within and for the Commonwealth of Pennsylvania, at 11:20 A.M., Tuesday, February 20, 1973, at the law offices of the United States Attorney's Office, 623 United States Court House, Pittsburgh, Pennsylvania 15219.

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APPEARANCES:

ROBERT B. LAYTON, ESQ., Gilbert, Segall and Young, 405 Park Avenue, New York, New York 10022, appearing on behalf of the Plaintiff.

ROBERT J. HIPPLE, ESQ., Tax Division, Department of Justice, Washington D.C. 20530, appearing on behalf of the Defendant.

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STIPULATION

It is hereby stipulated and agreed by and between counsel for the Plaintiff and counsel for the Defendant and the witness that the inspection, reading and signing of the deposition may be and are waived.

- - -

1 ROBERT REESE

2 of lawful age, and being first duly sworn to testify to the
3 truth, the whole truth, and nothing but the truth, as herein-
4 after duly certified, testified on his oath as follows:

5 DIRECT EXAMINATION

6 BY MR. HIPPLE:

7 Q State your name and current address.

8 A Robert Reese, 3835 McFarland Street.

9 Q What is your current occupation?

10 A Truck driver.

11 Q Were you employed during the period of 1962 to
12 1966?

13 A Yes.

14 Q Were you a full time employee of Avis?

15 A No, I was not.

16 Q Where were you employed, the best you can recall?
17 What were you doing in 1962 to 1966?

18 A In 1962, I was over at Avis. How long, I don't
19 remember, really.

20 Q What were you doing there?

21 A Running cars, and then sometime in 1962 or 1963,
22 I filled in vacations at Avis in this garage at the airport.
23 Then I left there and I want to work for an auto parts company.

24 Q Would you describe what you did when you were
25 installing cars for Avis, during that period of time?

1 A What else can I say? That is what I did, I
2 shuttled cars.

3 Q From what point?

4 A All over the place. The majority was in
5 Pittsburgh.

6 Q What was the longest distance you went?

7 A The longest I can remember, off-hand, would be,
8 I believe it was Wilmington, Delaware.

9 Q Do you recall about how often you would do it?

10 A You mean ran the cars?

11 MR. LAYTON: Went to Wilmington.

12 THE WITNESS: Just in general?

13 BY MR. HIPPLE:

14 Q In general, yes.

15 A That is a long time ago. It depends on the day
16 itself.

17 Q Were you doing anything else during that period?

18 A No.

19 Q Were you doing this every day, if there were cars
20 to shuttle?

21 A If it was there. If it wasn't there, you did
22 nothing.

23 Q How did you first find out about the shuttling?

24 A I can't recall. I may have been told about it
25 by somebody.

1 Q Do you recall if that was somebody at Avis?

2 A It was not an employee at Avis. I might have
3 already been doing it. I knew nobody from Avis.

4 Q Do you recall the specific circumstances of the
5 first shuttling contract you had, where you were going?

6 A Not really. I would assume the first thing
7 would have been the airport. That was 90% of it, I would say.

8 Q Did anybody explain to you what shuttling in-
9 volved, the procedure you followed when you first started it?

10 A No, all I knew, I took a car, delivered it, and
11 picked one up. That was it.

12 Q Do you recall who told you where to go and pick
13 up the car?

14 A It could have been anybody. It could have been
15 one of the counter girls who told you to get the cars.

16 Q Do you recall whether you had to fill out any
17 forms to do this, an application or kind of a personnel form?

18 A It was not a personnel form. It was a thing
19 that had the number of cars. Every car was numbered.

20 Q Before we get to that, did you have a personal
21 information form to fill out?

22 A No, nothing personal.

3 Q Do you know whether or not Avis kept a list of
4 people who did the shuttling?

5 A No, there is no way I would know.

1 Q Would you look at this marked Exhibit A. Have
2 you ever seen one of those before?

3 A Yes.

4 MR. LAYTON: Or something similar to it?

5 THE WITNESS: Similar to it. It was
6 not this big.

7 BY MR. HIPPLE:

8 Q Can you describe, to the best of your knowledge,
9 what that is?

10 A To begin with, these miles was not on it, this
11 date, and the date cut was not on it.

12 Q What is the purpose of the document in general,
13 not that specific one, but the one that you used?

14 A As far as I know, I was under the impression it
15 was so they had control of where the vehicle was going and com-
16 ing from. That is all I knew about it.

17 Q Do you know who filled out the information on it?

18 A A lot of times, we did.

19 Q Did anybody explain what the purpose of that
20 thing was to you, anybody from Avis?

21 A No, there was never no explanation as to what
22 it was for.

23 Q When you first started to shuttle, were you
24 asked for your Social Security number?

25

- 1 Q Your driver's license?
- 2 A No.
- 3 Q Did anybody ask you about your driving record?
- 4 A No.
- 5 Q Did they ask for your home address and phone
- 6 number?
- 7 A Phone number.
- 8 Q Do you remember who asked you for the phone
- 9 number?
- 10 A It would go back to the counter personnel.
- 11 Q Were you asked for any references?
- 12 A No.
- 13 Q Were you asked about any auto insurance you had?
- 14 A No.
- 15 Q Was there any kind of interview at any time?
- 16 A No.
- 17 Q Would you describe, in as much detail as you can
- 18 remember, the general steps you took when you shuttle the cars,
- 19 from the time you were first contacted to take the car, until
- 20 you actually got it where it was supposed to go?
- 21 A The only thing I can remember, we would go over,
- 22 I think it was Sixth Avenue at the time, and you would go up
- 23 in the garage. They tell you what cars would go to where,
- 24 and you would go up in the garage and take the cars, and say-
- 25 they would go to the Greater Pittsburgh Airport or

1 elsewhere, and took them out and dropped them off, and came
2 back.

3 Q You filled out the form?

4 A Yes, you had one of these here.

5 Q Did you take that with you, or leave it there,
6 or do you recall what you did with that?

7 A We had it with us, I remember that. What we
8 did with it after that, I really don't remember.

9 Q When you got to the destination, the airport or
10 whatever it was, did you have to check in?

11 A We went up to the desk and told them what cars
12 were in. You would show them this. I don't remember leaving
13 it.

14 Q You don't remember what you had to do with that
15 thing?

16 A No, I don't know what became of it.

17 Q Was there any kind of list or form you filled
18 out, signed, or anything like that at the destination?

19 A No.

20 Q How would you be paid, was it cash, check,
21 weekly, daily, or after every run?

22 A It was cash.

23 Q Was it on a daily basis?

24 A Yes, usually it was, yes.

25 Q Do you know how the amount was determined?

1 got for each one?

2 A It was usually established before the trip that
3 it would pay so much, and it would vary. It is hard to remem-
4 ber exactly every one.

5 Q How about the expenses: tolls, gas and oil?

6 A That was all paid by them. We got receipts for
7 it.

8 Q Were you given a specific route to follow when
9 you were going someplace?

10 A No.

11 Q How about a specific time in which to get there?

12 A No.

13 Q Were you allowed to use the car for personal
14 reasons?

15 A You mean for my own uses?

16 Q Yes, like take a trip to the airport or whatever.

17 A Not that I can recall.

18 Q Did anybody at Axis tell you you couldn't do that?

19 A No, but the question never came up that I can
20 remember.

21 Q Do you recall if the mileage was checked on the
22 car when you left and when you got there?

23 A Yes, I remember the mileage being written down
24 to the car, when you left, and when you got there, and you put
25 the mileage on this slip.

1 Q Did you do that in each case?

2 A I did that, yes.

3 Q On both ends?

4 A Usually, yes, because you check the mileage on
5 the cars as you went up to get it.

6 Q Do you recall any kind of instructions, or advice,
7 or information given to you by anybody at Avis about how to do
8 it, or where to go, or what to do?

9 A Not specific instructions, except if you did not
10 know where the place was at, you would get a map and look, or
11 something.

12 Q Do you know what happened if you got a speeding
13 ticket while you were shuttling cars?

14 A Yes, I paid it.

15 Q Was that explained to you?

16 A No, but I paid it.

17 Q Did you actually get one?

18 A You better believe it.

19 Q Did you ask Avis if they would pay it for you?

20 A No, not really.

21 Q How about a parking ticket?

22 A Never got one.

23 Q Was it ever explained to you that would happen
24 if you did?

25 A No.

1 Q Was the procedure explained to you if the car
2 broke down, what you were supposed to do then?

3 A That was never explained either. You just
4 crossed that bridge when you got to it, I assured.

5 Q It never happened to you?

6 A Not that I can recall. Nothing that was serious
7 enough that I had to call anybody.

8 Q Was it explained what you were supposed to do if
9 you had an accident?

10 A Fill out an accident report.

11 Q With the police or with Avis?

12 A With Avis.

13 Q Did they tell you how to do that or where to fill
14 it out?

15 A Right in the office, as far as I was concerned.

16 Q Do you recall anyone specifically telling you
17 this?

18 A Not specifically.

19 Q How do you know you were supposed to do this?

20 A I had an accident.

21 Q It was after the fact?

22 A Yes.

23 Q What did you do then?

24 A Called the garage and notified them what happened.
25 They sent a man out to pick me up. When I got back to the

1 garage, I filled out an accident report.

2 Q Do you know if you were covered by insurance?

3 A I could not tell you.

4 Q How about the car itself?

5 A The car being insured?

6 Q Yes. Was this ever told to you?

7 A No. I would assume the company had insurance
8 of some kind.

9 Q Do you recall whether Social Security, unemploy-
10 ment compensation, or withholding taxes were taken out of the
11 amount you were paid by Avis?

12 A Not to my knowledge.

13 Q Do you recall whether you included that in your
14 own Income Tax for that year?

15 A No, I don't recall, really. I don't think so.

16 Q Did anybody at Avis say anything to you about
17 the payroll deductions taken out or not being taken out?

18 A Not that I recall, no.

19 Q Do you know anybody else who shopped cars
20 during that period of 1952 to 1956?

21 A Do you mean do I know him personally?

22 Q Yes.

23 A Not personally, no.

24 Q Do you know any of the names? Could you tell
25 us anybody that did it then?

1 A That is hard to remember those names. That is
2 almost ten years ago.

3 Q Do you know if any of the people who were shut-
4 tling at this time were full time employees of Avis on other
5 jobs, either as mechanics, or clerks at a desk, or something
6 like that?

7 A I do know of two of them.

8 Q Who were they, do you remember?

9 A Yes, Jerry Beck, because I seen him over at
10 Allegheny Times, and I ran into Mike Coco at Allegheny Times.

11 Q Do you recall seeing any advertisements in the
12 newspapers for car shuttlers for Avis?

13 A Not for Avis. I seen an ad for shuttlers, but
14 whether it was for Avis, I don't know. I cannot say it was
15 Avis' ad.

16 Q Do you remember about when it was, within a few
17 years? Was it somewhere around 1962 to 1966?

18 A It was long after that.

19 Q Was that the local paper here?

20 A That was in the Press, yes. All that was marked
21 was a shuttler. It could be shuttling anything, I don't know.

22 Q Did you get any kind of training to do this?

23 A No.

24 Q Were you given any written or oral instructions,
25 other than take this car to there?

1 A No, not really.

2 Q When you got a car to shuttle, do you recall
3 what you were given besides keys, and the registration, and
4 the contract?

5 A No, nothing but the car and a piece of paper
6 like this here.

7 Q Do you know whether or not you were covered by
8 any health or accident insurance which was maintained by Avis?

9 A If I was, nobody told me.

10 Q How about Workmens Compensation and other fringe
11 benefits?

12 A Not to my knowledge.

13 Q Did you file any claims like that with Avis?

14 A No.

15 Q Do you recall if anybody who shuttled for Avis
16 frequently was given any kind of preference? For instance,
17 you had three people and two cars.

18 A I would not say there was any preference. It
19 was on a first come, first served basis, as far as I was con-
20 cerned.

21 Q Did you ever have to share any part of your fee
22 or compensation with anybody else?

23 A Not that I can remember.

24 Q Were you asked to do that?

25 A Not that I can remember.

1 Q Was there a foramen, or head shuttler, or anything
2 like that?

3 A No, not really.

4 Q Did you have any kind of identification, or I.D.
5 card, or badge, or uniform, or anything like that to identify
6 you?

7 A No, you just dressed in regular clothes.

8 Q Do you know what records, if any, were maintained
9 by Avis to show the date and the amount of payment made to the
10 shuttlers?

11 A Not to my knowledge.

12 Q Did you have to sign any kind of receipt for
13 payment?

14 A I don't remember. I remember marking these car
15 numbers down on something else, but what it was, it might have
16 been something else like this again.

17 Q At the moment when they actually paid you the
18 cash, was there a receipt signed?

19 A I think there was something to that effect. I
20 could be wrong. I really don't remember.

21 Q You don't remember what it looked like? Was it
22 a petty cash slip or anything like that?

23 A No, it was nothing like that that I can recall.

24 Q To your knowledge, was any individual who
25 identified your car as being in the airport affiliated to or in any

1 for some reason?

2 A Yes.

3 Q Do you remember the circumstances of that?

4 A Yes.

5 Q What?

6 A Me.

7 Q Would you explain that?

8 A Well, I had a run-in with the Car Control Manager
9 him and I did not hit it off too good, and then I had the
10 accident, and that was the excuse somebody was looking for.

11 Q They told you you could not do it any more?

12 A It was an excuse that I had given one of the
13 girls a hard time. That is the excuse that was used.

14 Q Somebody in particular told you that you could
15 not drive any more. How did you find out that they did not
16 want you back?

17 A The Car Control Manager, I think, was the man that
18 told me that.

19 Q Do you remember when it was, 1963, or 1962, or
20 1964?

21 A I have got to think of something.

22 Q It would have to be in January of 1964.

23 A That I can't remember, yes. It would come out
24 at.

25 You know I was also having the same kind of

1 A Not specifically enough that I can remember about
2 it.

3 Q Was the need for the shuttlers a regular thing
4 or did it come at peak times?

5 A When it was there, it was there, and when it
6 wasn't, it wasn't, it seemed to me.

7 Q How did you find out the need for shuttlers on a
8 particular day? Did somebody call you? Did you go some place?

9 A It worked either way. I would call them, or
10 somebody called me, or another one of the shuttlers called and
11 said to come on out.

12 Q Did you yourself call any other shuttler and tell
13 them to come in?

14 A Not that I can recall.

15 Q Did anybody at Axis ever call you?

16 A I would assume they did, yes. At one time or
17 another, they would have to call.

18 Q Did you ever go down to one of the Axis stations
19 and wait til there was a car to go out?

20 A Many a time.

21 Q Was there a specific place you were supposed to
22 wait, a lounge or a2.

23 A Yes, it was really in the lounge, and
24 that was about it.

25 MR. HEDDER: That's all I have.

1 MR. LAYTON: I have just one question.

2 - - -

3 CROSS-EXAMINATION

4 BY MR. LAYTON:

5 Q Is it fair to say there was no requirement that
6 you turned up every day to run cars? It was up to you to come
7 down, if you wanted to?

8 A Yes, you did not have to.

9 Q If it was snowing out, bad weather, and you did
10 not feel like coming down, you just did not run cars; is that
11 correct?

12 A Yes, it was to our discretion whether you wanted
13 to be there or not.

14 MR. LAYTON: I have no further questions.

15 (Whereupon, at 11:45 A.M., the deposition was closed.)

16 - - -

17 * * * *

18 [Reporter's Certificate omitted in duplicating]

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

- - -

AVIS RENT A CAR SYSTEM, INC.

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

:
:
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:
:
:
:
:
:

No. 70-C-70

: [Filed July 27, 1973]

- - -

DEPOSITION OF JEROME A. BECK, JR., witness here-

in, called by the Defendant pursuant to the Federal Rules of Civil Procedure pertaining to the taking of depositions for the purpose of discovery, and for use at trial, taken before Anne V. Thompson, a Notary Public within and for the Commonwealth of Pennsylvania, at 10:20 A.M., Tuesday, February 20, 1973, at the law offices of the United States Attorney's Office, 633 United States Court House, Pittsburgh, Pennsylvania 15219.

- - -

1 APPEARANCES:

2 ROBERT B. LAYTON, ESQ., Gilbert, Segall and
3 Young, 405 Park Avenue, New York, New York 10022, appearing
4 on behalf of the Plaintiff.

5 ROBERT J. HIPPLE, ESQ., Tax Division, Department
6 of Justice, Washington D.C. 20530, appearing on behalf of the
7 Defendant.

8 - - -

9 STIPULATION

10 It is hereby stipulated and agreed by and
11 between counsel for the Plaintiff and counsel for the
12 Defendant and the witness that the inspection, reading and
13 signing of the deposition may be and are waived.

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1 JEROME A. BECK, JR.

2 of lawful age, and being first duly sworn to testify to the
3 truth, the whole truth, and nothing but the truth, as herein-
4 after duly certified, testified on his oath as follows:

5 DIRECT EXAMINATION

6 BY MR. HIPPLE:

7 Q State your name and your current address?

8 A Jerome A. Beck, Jr., 3410 Durr Drive, Aliquippa,
9 Pennsylvania 15001.

10 Q Your current occupation?

11 A Service agent of Avis Rent-a-Car.

12 Q How long have you been with Avis?

13 A Eleven years in June, I believe.

14 Q Since 1962?

15 A Yes.

16 Q Were you employed prior to 1962?

17 A No. Do you mean with anybody else?

18 Q Yes.

19 A Yes, I worked for Zayre's and I worked for the
20 Fulton Theater.

21 Q Today, we are talking about the period of 1962
22 through 1966. Tell me briefly what position you had during
23 this period?

24 A Same as I have right now.

25 Q Did you ever act as a car shuttler for Avis?

1 A Yes, I did.

2 Q Would you explain what you did as a car shuttler?

3 A Well, either before work or after work, when I
4 first started, I worked night turn. I would come in sometimes
5 in the mornings, and if there was not anything to do, we would
6 run cars.

7 MR. LAYTON: Was this while you were
8 working for Zayre's and the Fulton Theater?

9 THE WITNESS: No.

10 MR. LAYTON: You were not employed by
11 anybody else at that time?

12 BY MR. HIPPLE:

13 Q You were working for Avis full time in the
14 Service Department?

15 A Yes.

16 Q Do you recall approximately how long you did the
17 shuttling?

18 A Sometimes once a week, twice a week, whatever I
19 felt like doing.

20 Q In what areas did you do it?

21 A All around the city, sometimes out of the city.

22 Q Do you recall the farthest point you went?

23 A I believe it was Worchester, Massachusetts.

24 Q How did you find out about the shuttling?

25 A When I started working there.

1 Q From your work with Avis?

2 A Yes.

3 Q Do you recall the circumstances of your first
4 shuttling contract?

5 A My cousin worked there and he told me what to do,
6 to get the contract, and fill it out, and get the car to the
7 airport. That is where I went the first time I ran.

8 Q From Downtown to the airport?

9 A Yes.

10 Q Did you call anybody about that or did somebody
11 call you to shuttle the cars?

12 A Yes.

13 Q Who was that?

14 A My cousin. He needed some help.

15 Q Was he a full time employee of Avis?

16 A No, he just ran cars.

17 Q Did you work some place else at the time?

18 A No, I just got out of the Army, I believe, then.

19 Q Did you talk to anybody at Avis about the car
20 shuttling, that is, the first time you did it?

21 A Yes, in the office. It was the North Side
22 garage there. They told us to go out to the airport and bring
23 some cars in.

24 Q Did they tell you how to get out to the airport?

25 A No.

1 Q Do you recall how you got out there?

2 A Parkway.

3 Q You drove?

4 A Yes, we took one car out and it happened to be
5 an out of city car, and we brought other cars in.

6 Q Was the shuttling procedure explained to you?

7 A Only by my cousin.

8 Q Do you recall having to fill out forms?

9 A No.

10 Q Do you know whether or not Avis, or anybody work-
11 ing for Avis, kept a list of shuttlers, a list of people who
12 did this?

13 A They had a phone book. When they needed them,
14 they called them.

15 Q Did you put in your phone number?

16 A They had it from my company records.

17 Q Would you take a look at what has been marked
18 previously as Exhibit A?

19 A Oh, yes. This is an old timer. That is a
20 vehicle transfer contract, which we signed.

21 Q Did you ever sign one of those similar to that?

22 A Yes.

23 Q Was the purpose of that transfer contract en-
24 dained to you?

25 A Only the information on the cars, so we could

1 get it to the station we took it to, so they would have the
2 information that the car was there.

3 Q When you picked up the car, was that already
4 filled out?

5 A No, there was nothing on it.

6 Q Who filled it out?

7 A We did.

8 Q When you first started the shuttling, were you
9 asked for your Social Security number?

10 A Driver's license. I don't remember. Well, I
11 was working for them. I don't think they did, when I actually
12 shuttled the cars.

13 Q In your full time employment with Avis, were
14 you authorized to drive cars?

15 A Oh, yes.

16 Q Did anybody look at your driving record or ask
17 you about that?

18 A Yes, I think they did.

19 Q Do you recall who it was, not the name of the
20 person, but the position?

21 A Probably the assistant city manager, but I am
22 not sure. I really don't remember, to tell you the truth.

23 Q Do you recall being asked for a home or office
24 address and phone number?

25 A No asking them?

1 Q No. Were you asked for a home address and phone
2 number?

3 A As far as shuttling goes?

4 Q Yes.

5 A No.

6 Q Were you asked for any references?

7 A No.

8 Q Were you asked about any auto insurance that you
9 had?

10 A No.

11 Q Do you recall any kind of interview you had be-
12 fore you could shuttle the cars?

13 A No.

14 Q Would you describe, the best you can recall,
15 the general steps that took place when you shuttled the cars,
16 from the time you picked it up, until the time you delivered
17 it?

18 A We would go in. Somebody would be in the office
19 and say what there was to do. Maybe they would say, "Take
20 five cars to New Kensington," or whatever. You go out and
21 get five cars, write the number down, sign it, and take them
22 there. When you got there, you parked the car, leave one copy
23 of the vehicle transfer, and keep the other, and we would all
24 come back in one car.

25 Q Do you know who drove the car, the shuttle car?

1 A Everybody took turns, usually, because he had to
2 do most of the driving.

3 Q Was he paid any more or any differently?

4 A No.

5 Q How was the compensation of the one who drove
6 the shuttle car fixed? How was he paid?

7 A He was paid the same way.

8 Q How were you paid, cash or check?

9 A You could get paid any time you wanted, that day
10 or at the end of the week. I would save mine from the whole
11 day. They had a sheet you wrote your name on, and how many
12 trips you made, and what cars you worked, and how much each
13 trip was worth, and they gave you the amount out of the petty
14 cash.

15 Q How was the amount of the compensation fixed?

16 A They had a schedule.

17 Q Did they include gas, oil, and tolls like that?

18 A We got \$2.00 plus anything else we had to spend.

19 Q How about transportation back to where you
20 started?

21 A Originally, we had a little Volkswagon. They had
22 a tow behind it, and we would hitch it to one of the cars, and
23 come back in that.

24 Q Getting back to the one who drove the chase
25 car, the shuttle car, when he got to the airport, he would turn

1 in a ticket, would he?

2 A No, because he did not leave the car there.

3 Q How was his compensation fixed?

4 A When we came back to the North Side office, it
5 was then. That slip was done. If we would go somewhere else,
6 he would write another one for the next trip.

7 Q Was he paid for the hours on the way back?

8 A He was paid the same as we were, but he drove
9 both ways.

10 Q Were you given a specific route to follow?

11 A No, the best way we could get there.

12 Q Did you have any time to be there?

13 A No, you did not have to be there if you did not
14 want to.

15 Q I mean a specific time to be at your destination?

16 A Oh, no.

17 Q Do you recall a particular instance when some-
18 body got to the destination quite a bit later than expected?

19 A I guess it happened, but I don't recall any
20 specific incident. Someone might have stopped to get some-
21 thing to eat.

22 Q Do you recall anything being said at that time
23 about being late?

24 A I don't believe so.

25 Q Were you allowed to use the car for personal

1 purposes?

2 A No.

3 Q How do you know you could not do that?

4 A They told us. It was just a known fact. You just
5 did not use the car for your own purpose.

6 Q Did somebody specifically tell you that?

7 A One of the other car runners.

8 Q Do you recall somebody at Avis telling you that
9 specifically?

10 A No.

11 Q Do you recall who checked the mileage on the car
12 at either end?

13 A Nobody did. When they gassed the car at each
14 station, they recorded the mileage. If there was a discrepancy,
15 they may have brought it up to you.

16 Q Do you recall who filled in the mileage on the
17 transfer?

18 A We did.

19 Q Do you recall any kind of instructions or infor-
20 mation provided to you by anybody at Avis for the shuttling,
21 either the first time or any time?

22 A No.

23 Q What happened if anybody got a speeding ticket
24 or moving violation?

25 That was our problem.

1 Q Was that explained to you?

2 A I believe my cousin told me that.

3 Q Not somebody at Avis?

4 A No.

5 Q How about a parking ticket?

6 A The same. That is our problem.

7 Q What is the procedure or what did you do when a
8 car broke down on the way. Was that explained to you?

9 A No, we just tried to get it started. If it
10 would not start, we would jump in with one of the other guys.
11 We would report it whenever we got to where we were going, and
12 somebody would pick it up.

13 Q How about if you had an accident, did anybody
14 explain the procedure in that case?

15 A No. I did have one, I believe, but what I did,
16 I left the car and jumped in with one of the other guys, and
17 when I got back, I told them about it, and they had somebody
18 tow it in.

19 Q Do you know whether or not you were covered by
20 insurance while you were driving the car?

21 A We were not, not directly. We did not sign any-
22 thing that we were covered by insurance, no.

23 Q Do you know if the car was covered?

24 A It was paid for, because I did not pay for it,
25 but we did not sign anything that we were covered by insurance.

1 Q Was this ever discussed with you or were you ever
2 told there was insurance on the car?

3 A No.

4 Q Was anything said about personal injury while
5 you were driving?

6 A No.

7 Q Do you recall if Social Security or withholding
8 taxes were taken out?

9 A No.

10 Q Do you recall if you included payment of the
11 compensation you got from your personal return?

12 A No, I did not.

13 Q Was anything said to you about payroll deduc-
14 tions at the time?

15 A No.

16 Q It was never discussed?

17 A No.

18 Q Do you know anybody else who operated as a car
19 shuttler during that period?

20 A Yes.

21 Q Could you give us a few names, as many as you
22 can remember?

23 A My cousin, Tommy Schultz, for one.

24 Q Do you know where he is now?

25 A He works for Avis truck division. There was a

1 kid named Bob Harrington. I have no idea where he is at. Bob
2 Reece. You want just in between those years ?

3 Q Yes.

4 A I think there was Bobby Vance, who was another
5 one. Strangely enough, I cannot recall anybody else's name.

6 Q Do you know if any of these people were full time
7 employees of Avis at the time?

8 A Not at that time, they were not.

9 Q Did you see any ads for shuttlers in the news-
10 papers?

11 A No.

12 Q When was the last time you did any shuttling?

13 A I would say about three years ago.

14 Q Were you given any type of training?

15 A No.

16 Q Were there any written or oral instructions
17 given to you?

18 A No.

19 Q Do you recall what you were given when you first
20 got the car to shuttle, besides the keys and the registration?

21 A That was it. That contract and that is it.

22 Q Do you know whether or not you were covered by
23 health insurance, accident insurance?

24 A I don't believe we were, no.

25 Q Workmen's Compensation?

1 A I don't think.

2 Q Any other fringe benefits?

3 A No.

4 Q Did you ever file a claim for anything like that?

5 A No.

6 Q Do you know anyone who acted as a shuttler who
7 did?

8 A No.

9 Q Was anyone who shuttled on a frequent basis
10 given preference as a regular over everybody else?

11 A No.

12 Q Did you ever have to or were you ever approached
13 to share part of your compensation with a shuttler or anybody
14 else?

15 A No.

16 Q During the time you did it, was there a foreman
17 or head shuttler?

18 A No.

19 Q Were you given any kind of identification, or
20 card, or badge, or something to identify you as an Avis
21 shuttler?

22 A No.

23 Q Any kind of a uniform?

24 A No.

25 Q Do you know what records were maintained by Avis

1 show the dates and the amounts of any payments made to you
2 shuttling?

3 A I have no idea if they still have them or not.

4 Q Do you know what kind of records were maintained?

5 A Only that sheet of people which we signed.

6 Q Some kind of a daily log?

7 A Yes, it was a petty cash voucher.

8 Q Were you required to sign a petty cash voucher
9 like that?

10 A A petty cash voucher, yes.

11 Q Would you describe the voucher that you received?

12 A It was just a tablet like you have there, and
13 we would fill in the runs we made that day.

14 Q Was it a pre-printed form?

15 A No, just a piece of paper.

16 Q Did you sign that or initial it?

17 A I believe we signed it, yes.

18 Q Do you know if anyone else at Avis signed or
19 initialled it?

20 A They may have, at the end of the day.

21 Q Was there a number or identification on that
22 piece of paper?

23 A No.

24 Q Do you have any idea what happened to it after
25 you signed it?

1 A No.

2 Q To your knowledge, was any individual who shuttled
3 cars for Avis during this period of time, refused or not al-
4 lowed to do so again?

5 A Not that I can recall. Usually they just quit
6 for one reason or another.

7 Q Nobody was told they could not do it?

8 A Not that I can remember.

9 Q Was the need for shuttlers a regular thing?

10 A Some days you would make a couple of bucks and
11 sometimes you would not make any.

12 Q Was there a regular peak day?

13 A Sometimes there was and sometimes there wasn't.
14 You just could not tell what you were going to do one day to
15 the next.

16 Q Do you have any specific knowledge of how shut-
17 tlers were contacted when Avis needed somebody?

18 A By word of mouth, usually by the runners. If
19 you needed another guy, you would get on the phone and call
20 somebody.

21 Q Were you ever called by anybody at Avis to
22 shuttle a car?

23 A I may have, I really don't recall.

24 MR. HIPPLE: O.K. I have no more
25 questions.

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1 MR. LAYTON: I have no questions.

2 MR. HIPPLE: Thank you very much.

3 (Whereupon, at 10:45 A.M., the deposition was closed.)

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6 [Reporter's certificate omitted in duplicating]

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RACKLIN, BERNSTEIN & ASSOCIATES

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

No. CIVIL ACTION 70-C-70

[Filed July 27, 1973]

DEPOSITION OF GORDON RICHARD BRADFORD

Taken on behalf of Defendant, at United
States Courthouse, Room 1142, 312 North
Spring Street, Los Angeles, California,
commencing at 2:00 P.M., Friday, March 2,
1973, before MARIAN SONG, C.S.R., a Notary
Public of the State of California, pursuant
to Stipulation.

RACKLIN, BERNSTEIN & ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
SUITE 206
1250 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90017
TELEPHONE 481-0795

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 STUART B. STILLMAN, ESQ.
4 900 Old Country Road
Garden City, New York 11530

5 FOR THE DEFENDANT:

6 ROBERT J. HIPPLE, Deputy United States Attorney
7 Trial Attorney, Tax Division,
DEPARTMENT OF JUSTICE
8 Washington, D.C. 20530

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1 GORDON RICHARD BRADFORD,
2 called as a witness by the Defendant, having first been duly
3 sworn, was deposed and testified as follows:
4

5 MR. STILLMAN: Before we start on the record, you are
6 aware, Mr. Bradford -- are you still Bishop Bradford?

7 THE WITNESS: I was released three months ago.

8 MR. STILLMAN: May I call you Mr. Bradford. This is a
9 case, Avis Rent A Car Systems versus United States of America.
10 It is a tax case where they have alleged that we are owing on
11 tax deficiencies. We take the position that we don't owe it.
12 The action is not directed at the church who collected the
13 money, nor you in your individual capacity.

14 THE WITNESS: I understand that.
15

16 EXAMINATION

17 BY MR. HIPPLE:

18 Q State your full name and address for the record,
19 please.

20 A Gordon Richard Bradford, 274 Each Blaine Street,
21 Riverside, California.

22 Q Your current occupation?

23 A Chemist.

24 Q Were you employed during the period of '62 to '66?

25 A Yes, I was.

1 Q Where were you employed at that time?

2 A University of California at Riverside.

3 Q Have you ever had any connection with a car-
4 shuttling operation by or for Avis?

5 A Yes.

6 Q Would you describe the connection or capacity.

7 A In representing the church in that period of time
8 referred to, we worked with Avis company in driving cars for
9 their rental system.

10 Q To identify or make the record clear, tell us what
11 church you are talking about.

12 A It is commonly called the Mormon Church or the
13 Church of Jesus Christ, Latter Day Saints.

14 Q When did the church first enter into this
15 relationship with Avis, if you can recall?

16 A It seems it was about 1965. That's approximate.

17 Q Do you remember the circumstances entering into it?

18 A Well, we had heard that there may be a possibility
19 for our church organization to make some money that would be
20 used in the proposed building fund through providing this kind
21 of service.

22 Q Do you recall where you heard about it, from whom?

23 A Yes. There was a member of our church congregation
24 who had recently moved into our congregation, who came from the
25 Santa Ana area -- I don't remember exactly who told us that --

1 it was an understanding that another church group that had been
2 driving for Avis.

3 Q Would you describe in a little more detail exactly
4 what you did, what the church did.

5 A We asked one of our members to represent the members
6 of the church who had indicated a willingness to shuttle the
7 cars, and when the car was scheduled to be shuttled from
8 someplace, somebody from Avis company would call this individual,
9 and he in turn would call one of our members who had indicated
10 willingness to cooperate, to see if they might be available to
11 transport the car. If they happen to be out or if they were at
12 work or had odd hours, or for other reasons they couldn't go,
13 she would call someone else, and they would go down to the
14 Avis office and receive instructions about where the car was
15 to be taken and so forth.

16 Q Do you recall approximately how many people were
17 involved in this?

18 A It varied, because different people were available
19 or not available at different times, but I suppose of the
20 period of time that we were working in this capacity, that
21 maybe 60 people participated.

22 Q How long a period of time was the church involved
23 in this?

24 A I don't remember the exact period of time, really.
25 Approximately '65 to '68.

1 Q Do you recall who you dealt with at Avis when you
2 first started talking about this?

3 A There was one individual whose first name was
4 Chuck, and later there was an individual who later was trans-
5 ferred to the Ontario Avis office. At the moment I don't
6 recall.

7 Q Mr. Hale?

8 A No, I don't think it was Hale. I don't recall
9 his name right now.

10 Q Can you recall approximately how often, that is,
11 how many times a week someone from the church would shuttle a
12 car?

13 A Possibly five to eight times per week.

14 Q Did you ever do it yourself personally?

15 A Yes.

16 Q Do you recall the name of the individual or if there
17 were more than one individual who operated this for the church,
18 in charge of it?

19 A Yes, Mrs. LaFleur and Mrs. Horsepool.

20 Q You had better spell their names.

21 A H-o-r-s-e-p-o-o-l, and LaFleur, L-a-F-l-e-u-r.

22 Q Do you know where they are now?

23 A Yes. Mrs. Horsepool is at the same address as she
24 was for the service being provided, and the LaFleurs have since
25 moved to Ventura. I have their address at home, but not with

1 me.

2 Q Now, the Avis people would call up either Mrs. La-
3 Fleur or Mrs. Horsepool to make the arrangement and contacted
4 one of them?

5 A One of these individuals knew, of course, when
6 there was some need for the shuttling.

7 Q And do you recall if anyone at Avis explained the
8 shuttling operation to the individuals, who did the shuttling,
9 give them instructions on how to do it, who to see, that sort
10 of thing?

11 A Yes. Of course, they would have to be told where
12 to take the car.

13 Q Besides just where the car was and where they had
14 to go, any other kind of instructions that were given, any
15 information?

16 A They were told, of course, before the project began
17 that we should be cautious about driving the cars. They were,
18 almost all of them, new cars and, of course, wanted to avoid
19 accidents. I don't recall anything much more than this.

20 Q Did you or anyone else in your church have to fill
21 out any personal information forms for Avis, the name, address,
22 phone number, that sort of thing?

23 A Part of the + , as I recall, there was a little
contract form + as filled out.

Q me. prior to the time you actually got a car,

1 was there any personal information, somewhat in the nature of
2 an application form?

3 A No.

4 Q Do you know if Avis itself kept a list of individuals
5 who did shuttling?

6 A I am not sure about that.

7 Q You mentioned a contract form. Was that a contract
8 form that you got every time you moved a car?

9 A Yes.

10 Q I show you what has been marked here as Defendant's
11 Exhibit A and see if you can identify that as one of those
12 contracts.

13 A I really don't remember the similarity of this
14 form to the others, but there were forms that we did sign.

15 Q Do you recall if the forms that you signed had
16 basically the same information as that form does?

17 A I think this is correct, yes, acknowledging the
18 condition of the acceptance of the car to be driven.

19 Q And the information is filled in down below, the
20 make, model, and mileage?

21 A Yes.

22 Q Did the individual who shuttled the car sign one of
23 these every time he moved a car?

24 A I think that's correct.

Q Do you recall any cases when the car was moved with-

1 out a contract like that?

2 A Not that I am aware of. I wasn't there when they
3 made the arrangement for driving the car at all times.

4 Q Did you or anyone else that you know of ever refuse
5 to sign one of those?

6 A No.

7 Q Was the purpose or the effect of that contract
8 explained to you or anyone else that did the shuttling?

9 A Yes, I think so. We were to be responsible for
10 the vehicle and return it in good condition.

11 Q Do you recall if anyone at Avis asked you or anyone
12 else in the church for a social security number?

13 A I don't recall if they ever did that.

14 Q How about a driver's license.

15 A I don't recall even about the driver's license.

16 Q How about your driving record, accidents, speeding
17 tickets, or that sort of thing, were you asked about that?

18 A No, not individually. However, within our church
19 group, we try to avoid asking people, younger people, for
20 example, who might have demonstrated a poor record in driving.

21 Q Do you recall any kind of an interview or discussion
22 with Avis before you were allowed to shuttle a car?

23 A Well, we met with the office representative to let
24 us know what was expected of us in terms of the coordination of
25 the effort. For example, we told them that we would have

1 somebody available with a phone number whom they could call
2 when they had need for shuttling service and in a sense they
3 agreed they would keep this phone number available for
4 contact.

5 Q Was there any kind of written agreement or under-
6 standing between the church and Avis for shuttling?

7 A No.

8 Q Did the church agree to have people available at
9 any time, weekends, 24 hours a day?

10 A No, not really. We indicated that we would explain
11 to the members that Avis's operation was not always working
12 hours, and that if they might be available, then they would be
13 called on.

14 Q Was there any one particular time when Avis
15 needed shuttlers more than any other time?

16 A Occasionally, there were times when they had
17 more need than others, yes. Just as a matter of business
18 demand, I suppose.

19 Q Was the peak during the week?

20 A You never knew when it might be.

21 Q No one set time?

22 A If there was a convention in town and people
23 coming and going, then of course, there would be a greater
24 need.

25 Q And the best you can recall having done it yourself,

1 would you describe the general steps that took place from the
2 time Avis contacted who was in charge of the church group up
3 until the time you actually delivered the car, where you went,
4 the documents involved, any checking procedures, that sort of
5 thing.

6 A Yes. For example, in my case, the few times I
7 drove, I might be at home doing something in the yard and the
8 phone would ring, and one of these two individuals would
9 indicate that there were some cars to be shuttled, would I be
10 available to assist and I would say yes, and they would say
11 that they would like us as soon as convenient, so I would get
12 in our personal car and go down to the Avis office and leave
13 the family car there and go into the Avis office and sign one
14 of these contract forms and receive instructions as to where
15 the car was to be taken, for example, over to the Ontario
16 airport and then would proceed to follow those instructions.

17 Q Was the contract already filled out when you went
18 to pick up the car?

19 A No, not necessarily.

20 Q The description of the car and so forth?

21 A Not necessarily.

22 Q Did you ever do that yourself?

23 A No. Sometimes it was filled out, and other times
24 it would be filled out as we would arrive, because they weren't
25 always sure, I guess, as to who was coming.

1 Q Did the Avis people always fill out the form, the
2 contract?

3 A No.

4 Q Did you do it yourself?

5 A Yes, they did. They identified the car.

6 Q How about the mileage, did you check that, fill
7 that in?

8 A We checked that and, of course, we had to fill out
9 the mileage figure out as we completed the trip.

10 Q Would you finish your description. What happened
11 after the checking procedures?

12 A Then we would take these contract forms, as I
13 recall, into the representative of Avis where we were to
14 deliver the car, and at times there would be other cars to be
15 shuttled back to where we were going or roundabout way, and we
16 would complete that part of the project effort and that
17 terminated by turning this form in.

18 Q Is there a specific person you were supposed to
19 see at your destination or anybody at the Avis office?

20 A Anybody at the office.

21 Q Was there anything else you had to sign, any kind
22 of receipt or document, if you know?

23 A No.

24 Q How did you get back from the Ontario airport?

25 A Well, that was planned before we left by the Avis

1 personnel. They realize the responsibility of getting us back
2 to where we started from.

3 Q They gave you another car or send another car?

4 A They either sent a car with us with another driver
5 to return those who were driving the cars, although in some
6 way they would provide transportation for us to return.

7 Q Did anyone in the church group ever go a longer
8 distance than around this immediate area?

9 A Yes, we drove cars to San Diego.

10 Q And how did you get back when you went down to
11 San Diego?

12 A By the same arrangement that was made by the Avis
13 people.

14 Q It was one of the shuttlers or one of the church
15 group would go in that extra car?

16 A Yes. Not all of the time, however. Sometimes Avis
17 personnel would drive the shuttle car to return us if they had
18 it. If there were a number of cars to be taken to the destina-
19 tion and all were to be left there, then they would provide
20 another driver from one of their staff from the office to
21 return those who were shuttling, representing the church.

22 Q How was the church or the individual shuttlers
23 paid for the shuttling?

24 A It varied. Sometimes the individual was given the
25 pay for a particular hour or two or whatever it consisted of

1 driving of the distance involved, and then most often, how-
2 ever, the money was given to one of the group that might be
3 driving at that particular time, and that individual turned it
4 in to the financial clerk at the church the next Sunday.

5 Q Do you know if there was a petty cash or some other
6 kind of receipt that was signed when the money was paid?

7 A I am not aware of that.

8 Q You don't remember having signed one yourself?

9 A No.

10 Q Was a payment ever made by check directly to the
11 church as you recall?

12 A Yes, I think it was made by check on occasion.

13 Q Do you recall how the amount of compensation was
14 fixed?

15 A Well, it was -- yes, it was determined by the Avis
16 personnel, indicated the driving time and distance, what it was
17 estimated to be worth to them, and it was somewhat the function
18 of the distance and the time involved.

19 Q Just a flat rate, then?

20 A Yes. And then dependent upon the distance and the
21 time.

22 Q Was any of the shuttling done so-much-per-mile
23 basis?

24 A No.

25 Q Were there ever times when there were expenses

1 involved, such as gas, oil, tolls, anything of that nature?

2 A As I recall, one or two instances the cars ran out
3 of gas, and we had to get gas to get them to the destination,
4 and they reimbursed us for that.

5 Q Were you or anyone else who drove as a shuttler
6 given a specific route to follow a destination?

7 A No.

8 Q Were you given any specific time in which to get
9 there?

10 A No.

11 Q Were you allowed to use the car for any personal
12 purposes on the way?

13 A No.

14 Q Did anybody say anything about that, that you could
15 or could not?

16 A I am not aware that this was given as a specific
17 instruction, but within our discussing the project effort
18 within the church, we indicated, especially the younger people,
19 that they were not to be other than on course.

20 Q Was it explained what happened if you got a
21 speeding ticket on the way?

22 A I am not sure about that. We would feel responsible
23 for it, of course, or the individual.

24 Q You don't recall any specific instructions or advice
25 on that from Avis?

1 A No, I don't recall that it came up.

2 Q Was anything explained to you on what to do if the
3 car broke down or if you had an accident on the way?

4 A Well, other than this condition of running out of
5 gas, and I guess the answer to that was evident.

6 Q And nobody explained to you any procedure to follow
7 if the car did break down, particularly if you had an accident,
8 did they tell you who to call, where to go, what to do?

9 A No, I don't remember that that was explained in
10 detail, but I am sure that it probably was with some of the
11 people who were driving, although I just personally didn't
12 hear about it if that was explained.

13 Q Do you know if you were covered by automobile
14 liability insurance while you were driving?

15 A Yes, I understood that we were.

16 Q By Avis's insurance?

17 A Yes.

18 Q Do you know if that was just for property damage
19 on the car itself or whether it also included personal injury
20 to the shuttler?

21 A I don't know.

22 Q Do you recall the coverage or lack of coverage
23 being explained to you by anybody at Avis?

24 A No.

25 Q Do you recall coming up at all in discussions in the

1 church group of anybody else?

2 A I recall that it came up within our church group
3 as to what the levels were involved, but I don't recall that
4 we learned about what they were.

5 Q The church didn't have any automobile insurance
6 coverage?

7 A No.

8 Q Do you know whether social security, unemployment
9 taxes, or withholding taxes were deducted from the amount paid,
10 whether directly to the church or the individual?

11 A No, I don't recall that. We did indicate to our
12 individuals that when they were receipted or given credit for
13 having made a contribution, they should have declared that
14 amount on their income, and they should have subtracted it from
15 their contributions, or included as part of their contributions.

16 Q Was anything said to you or anybody else about these
17 payroll deductions at the time you were doing this by somebody
18 from Avis?

19 A No, I don't recall, really, whether they did or not.

20 Q Do you know of anyone other than the church group
21 who were shuttling cars for Avis during that period?

22 A I don't know who they represented, but I did see
23 other people other than our church group in the office and
24 driving automobiles.

25 Q Do you have any idea of the basis under which they

1 were doing this, on an individual basis or for other groups?

2 A Much the same as in our own church group.

3 Q Other organizations?

4 A Not necessarily organizations. It might have been
5 individuals. I don't know.

6 Q Do you know if any of the people doing the shuttling
7 on a similar basis were full-time regular employees of Avis,
8 such as mechanics who were working around the clock?

9 A I don't know about that.

10 Q Did you ever see any advertisement for shuttlers
11 in the newspapers?

12 A No, not really.

13 Q When you picked up a car, do you recall being given
14 anything besides the transfer contract and the keys?

15 A No, I don't.

16 Q Do you know if you were covered by health insurance
17 or any other fringe benefits?

18 A No, that was never brought up, and we assume that.

19 Q Do you know of anyone who filed a claim for that?

20 A No.

21 Q Did you ever have to share any part of the fee that
22 was paid to anybody else?

23 A No.

24 Q Was there a foreman or head shuttler, somebody like
25 that at Avis who ran the operations or controlled it for Avis?

1 A Well, I don't know what division of responsibility
2 was with the Avis people. We dealt with the local office, and
3 there were different people on duty at different times, and they
4 each in turn made these assignments.

5 Q It wasn't a specific person that you dealt with
6 each time?

7 A No. I am not sure, however, if there was any
8 contact with any one person before the assignments were made or
9 not. Not to our observation.

10 Q Did you have any kind of identification or card
11 or badge or anything of that nature to identify you as a
12 shuttler for Avis?

13 A No, because -- well, other than through the phone
14 call, when this came from Avis to one of our coordinating
15 people, and they would call one of our members and they went
16 down; then the person at the office would know they were from
17 the church group.

18 Q Other than that, you had no specific identification?

19 A No.

20 Q Did you wear a shirt or jacket, anything like that?

21 A No, not even a pin.

22 Q Do you know of any other records, documents of any
23 kind that Avis used or maintained to show the dates, amounts,
24 or payments to shuttlers besides the transfer contract?

A No, I don't.

1 Q You don't recall seeing anything else?

2 A No, I don't recall seeing any of their book work.

3 Q And you don't recall having signed or seen a
4 petty cash slip when the payment was made; anything like that?

5 A No, I don't.

6 Q Do you know of anyone who had driven for Avis as a
7 shuttler in the past and was someone that was refused or not
8 allowed to do it again?

9 A No, I don't.

10 Q You mentioned before that Avis occasionally, often
11 provided an extra car or someone to drive out and bring people
12 back to the office. Was that individual compensated for that
13 trip as part of the shuttling?

14 A If you mean, that is, the driver was a member of
15 the church?

16 Q If he had five cars and six of you went down.

17 A Yes.

18 Q He was paid also?

19 A Yes, as I recall, that's correct.

20 Q And on the same basis or getting something extra
21 for coming and going back?

22 A No.

23 MR. HIPPLE: That is all I have got.

24 MR. STILLMAN: No questions. Signature waived.

25 (It was stipulated by and between counsel that the
26 signature of the deposition by this witness be waived.)

COPY

732 RACKLIN, BERNSTEIN & ASSOCIATES

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

No. CIVIL ACTION 70-C-70

[Filed July 27, 1973]

DEPOSITION OF EDWIN D. HALE

Taken on behalf of Defendant, at United States Courthouse, Room 1142, 312 North Spring Street, Los Angeles, California, commencing at 1:00 P.M., Friday, March 2, 1973, before MARIAN SONG, C.S.R., a Notary Public of the State of California, pursuant to Stipulation.

RACKLIN, BERNSTEIN & ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
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1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 STUART B. STILLMAN, ESQ.
4 900 Old Country Road
5 Garden City, New York 11530

6 FOR THE DEFENDANT:

7 ROBERT J. HIPPLE, Deputy United States Attorney
8 Trial Attorney, Tax Division,
9 DEPARTMENT OF JUSTICE
10 Washington, D.C. 20530
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EDWIN D. HALE,

called as a witness by the Defendant, having been first duly sworn, was deposed and testified as follows:

EXAMINATION

BY MR. HIPPLE:

Q State your name and address.

A Edwin D. Hale, 1900 East A Street, Ontario, California.

Q What is your current occupation?

A District manager, Avis Rent A Car.

Q How long have you been with Avis?

A Eight or nine years.

Q Since '65?

A '64.

Q Where did you start working for Avis?

A Phoenix, Arizona.

Q What cities have you worked in for Avis?

A Ontario, Houston, Washington, Baltimore, Anaheim.

Q We are talking about the years '62 to '66. In your case, '64 to '66, using shuttlers, car shuttlers of Avis. Can you tell me what positions and what your duties were in the year '64 to '66 with Avis?

A I was a rental agent during 1964 which consisted of renting and checking in cars.

1 Q That was in Phoenix?

2 A Phoenix and Ontario.

3 Q And how about after that?

4 A After '66?

5 Q All this was '64 through '66?

6 A Right.

7 Q And in that position did you become familiar with
8 the shuttling operation?

9 A Yes.

10 Q Would you describe what the car shuttlers did.
11 This would be in Phoenix.

12 A In Phoenix, moved cars from point A to point B.

13 Q Specific points like downtown to the airport?

14 A From a rental station to a rental station.

15 Q Do you know how Avis contacted the car shuttlers?

16 MR. STILLMAN: Are you talking about Phoenix?

17 MR. HIPPLE: Yes.

18 THE WITNESS: Phoenix, no.

19 MR. HIPPLE: Q Speaking of Ontario, that's Ontario,
20 California?

21 A That's correct.

22 Q Did the Ontario office use shuttlers?

23 A Yes.

24 Q They used them in the same way as in Phoenix?

25 A I am not familiar with Phoenix shuttling.

1 Q , You had nothing to do with the shuttlers in
2 Phoenix?

3 A No.

4 Q Let's talk about Ontario. Were there a certain
5 number of shuttlers involved at one time with a basis of ten
6 or fifteen of them?

7 A No. I couldn't say there was a set number.

8 Q Were there any shuttlers that you recall that were
9 regulars that came back more than one time?

10 A I don't know.

11 Q Do you know how Avis in Ontario contacted the
12 shuttlers?

13 A Yes.

14 Q Would you describe that.

15 A We would call the Fourth Ward of the Mormon Church,
16 a man by the name of Bradford, and we would tell him we needed
17 25 cars moved from X station to X station, and he would have
18 them moved.

19 Q That's all you knew about it then, you called, and
20 he took care of it. Do you know how Avis got in touch with
21 Gordon Bradford? Do you know how Avis got contact with him?

22 A I think he contacted us.

23 Q During that period of time, did the Ontario office
24 use any other shuttlers except through Bradford?

A Yes.

1 Q Do you know how they were contacted?

2 A No, I don't.

3 Q Was there any kind of written agreement or under-
4 standing with Mr. Bradford about the shuttling between Avis and
5 Bradford?

6 A He understood the fact of the age of the drivers
7 and the fact they had to have a valid California driver's
8 license to move them.

9 Q Was there any written agreement of any kind between
10 the two?

11 A No.

12 Q Do you know when they first started doing that
13 shuttling?

14 A In Ontario?

15 Q Yes.

16 A It was prior to my coming there, so I don't know
17 when it started, no.

18 Q Was the shuttling operation explained to Bradford
19 or anyone else sent over to shuttle cars when it had to be
20 done, how it had to be done?

21 A To Mr. Bradford, we told him we needed 25 cars
22 moved from Ontario to Orange County. Other than that, no.

23 Q There were no specific instructions given to the
24 shuttlers by anybody at Avis?

25 A No, because they already knew what had to be done.

1 Q Do you recall if any of the shuttlers had to fill
2 out any form including personal information?

3 A And to check driver's license history.

4 Q Did they have to fill out any kind of form?

5 A Other than that, no.

6 Q Did they have any kind of agreement or contract
7 when they moved the cars?

8 A We had a vehicle transfer contract that took care
9 of our mileage.

10 Q Did you use one of them for each one of the cars?

11 A Yes.

12 Q Did you have a contract every time a car was
13 moved?

14 A Yes.

15 Q I show you what is marked as Defendant's Exhibit A.
16 Would you identify that.

17 A Yes, that was a vehicle contract, transfer contract.

18 Q The same as used in that period of time?

19 A Yes.

20 Q You had one of those on every car that was moved?

21 A Yes.

22 Q Who filled out the information?

23 A Avis filled out the car information.

24 Q How about the mileage?

25 A We would fill that in also.

1 Q Did the shuttler sign that contract?

2 A Yes.

3 Q Did you ever have a case when the shuttler refused
4 to sign one?

5 A No.

6 Q Was the purpose of that contract explained to the
7 shuttlers?

8 A I don't know.

9 Q Do you know of any explanation about the purpose,
10 the fact, or why that contract was necessary, which was given
11 to the shuttlers?

12 A No.

13 Q Did you or anybody else at Avis ask the shuttlers
14 for their social security numbers?

15 A Yes.

16 Q Was there a specific place you kept a record of it?

17 A That's how we check their driver's license.

18 Q Is the social security on the license? I am not
19 familiar with the California license.

20 A No, I don't believe it is on the California license.

21 Q Just checking the name and the signature to see
22 that it matched?

23 A The fact that he had a good driver's license.

24 Q Did you check their driving record?

25 A Yes.

1 Q Is there a form or procedure to verify that?

2 A There was a form.

3 Q Did you follow up and verify with the State
4 authorities?

5 A No.

6 Q Did Avis maintain any list of the home address
7 and phone number of the shuttlers?

8 A No.

9 Q Did you personally ever contact anyone in connection
10 with the shuttling, Bradford or somebody else?

11 A No.

12 Q Was there any kind of interview before an individual
13 could shuttle a car?

14 A Interview? No.

15 Q The first time a person came to shuttle a car, what
16 procedure, if any, did you go through before he went on the
17 car?

18 A Checked the driver's license and filled the
19 driver's license form we had.

20 Q Would you expand on that a little. Can you describe
21 as best you can in that period of time the general steps that
22 took place when Avis contacted Bradford to the time the car was
23 delivered, the various steps and the process of documentation
24 involved, any checking procedures, anything like that?

A We would call Bishop Bradford and say, "We have 25

1 cars to move." He would ask where, and we would tell him,
2 "Ontario airport to Anaheim," and he wanted to know what time,
3 and we would tell him what time, and he would have the drivers
4 there.

5 Q What happened from that point on?

6 A The drivers were there, the vehicle transfer
7 contracts, which this represents, are made out by Avis employees.
8 They sign them and they go to the point, to Anaheim. At the
9 time they get into Anaheim, they write down the miles and hand
10 the keys and the contract to them in the office at Anaheim.

11 Q That's the only checking procedure there is?

12 A That's correct.

13 Q How were these individuals paid if you know?

14 A To the individual.

15 Q Cash or check?

16 A I don't know.

17 Q Whom did Avis pay for having the car shuttled?

18 A We paid the Fourth Ward of the Mormon Church in
19 San Bernardino.

20 Q Weekly or monthly?

21 A Usually ended up monthly.

22 Q Do you know how the amount was fixed for an individual
23 to shuttle back and forth between point A and point B? Was it a
24 mileage basis or flat rate?

25 A It was a flat rate.

1 Q Were there any expenses involved such as tolls or
2 gas and oil, things like that?

3 A No expenses.

4 Q Did they have a specific route to follow?

5 A I don't know. That was all we told them, point A
6 to point B.

7 Q Were they given a specific time in which to get
8 there?

9 A No.

10 Q Were the shuttlers allowed to use the car along the
11 way for any personal purposes?

12 A No.

13 Q Was that explained to them?

14 A Yes.

15 Q By Avis or by Mr. Bradford?

16 A Both.

17 Q Do you recall any kind of instructions or advice
18 or information of any kind that was given to an individual
19 shuttler when he left and picked up the car? This is by Avis.

20 A No, they usually had everything before they got
21 there.

22 Q Did you explain what happened if they got a
23 speeding ticket?

24 A No, I did not.

25 Q Do you know if anyone did?

1 A I don't know.

2 Q Was there any explanation given what to do if the
3 car broke down or if you had an accident?

4 A I did not. I don't know whether that was explained
5 to them.

6 Q Were the shuttlers covered by Avis' own insurance
7 while they were driving?

8 A Liability insurance?

9 Q Yes.

10 A Yes.

11 Q Did it cover personal injury as well as just the
12 auto itself, do you know?

13 A Personal injury to whom?

14 Q To the driver.

15 A No.

16 Q It did not cover them?

17 A No.

18 Q Was this lack of auto coverage for personal injury
19 explained to them?

20 A I don't know.

21 Q Do you know whether the social security, unemployment
22 taxes, or withholding was deducted from the amount paid to the
23 Mormon Church?

24 A Mormon Church? No, it was not.

25 Q Was anything said to the individual shuttlers about

1 that at the time?

2 A No, it was never brought up.

3 Q Was anything ever said to Bishop Bradford about it?

4 A No.

5 Q Do you know any of the people who were doing any
6 of the shuttling during that period of time?

7 A No, other than Irene Snow.

8 Q Do you know whether she was working with Bishop
9 Bradford?

10 A I don't know.

11 Q You mentioned earlier that there were occasions that
12 people other than Bishop Bradford's group would do shuttling.
13 Do you have any idea or can you estimate the amount of time or
14 the number of these in relation to Bishop Bradford?

15 A It was probably a very small group because the
16 headquarters at that time was in Ontario for Avis, and any other
17 group, which Irene Snow was part of, was in the Orange County
18 area.

19 Q Do you know whether any people who did shuttling
20 were full-time regular employees with Avis, who were mechanics
21 or clerical personnel?

22 A No.

23 Q Did Avis ever place ads in the newspaper or anything
24 like that for shuttlers?

25 A No.

1 Q Were the shuttlers given anything when they took
2 the car besides the keys and the vehicle transfer contract?

3 A No.

4 Q When the cars are moved, do you recall an occasion
5 when they were moved on a non-revenue ticket instead of a
6 vehicle transfer contract?

7 A Yes.

8 Q Was that through Bishop Bradford's group?

9 A No.

10 Q On what occasion would they be moved with a non-
11 revenue ticket, other than the vehicle transfer contract?

12 A A person such as myself would move one.

13 Q You mean as a full-time employee of Avis?

14 A That's right.

15 Q Do you know whether any of the shuttlers are covered
16 by Avis' health insurance or any fringe benefits?

17 A No.

18 Q You mean you know they are not?

19 A They were not.

20 Q Have any of the shuttlers ever filed a claim for
21 any benefit such as that?

22 A I don't know.

23 Q Did any of the shuttlers have any kind of identifi-
24 cation card or badge, anything like that, to indicate they were
25 shuttling cars for Avis?

1 A No.

2 Q Are you familiar with any records that were main-
3 tained by Avis to show the dates and amounts paid to the
4 shuttlers?

5 A I'm sure we have the files on the checks that were
6 paid to the Mormon Church.

7 Q When the shuttlers checked in, did they sign any
8 kind of receipt for petty cash, anything like that to show they
9 had done it?

10 A No, they turned in the vehicle transfer contract
11 which had the time stamped in and mileage put on it.

12 Q Do you know of any individuals who had shuttled
13 cars for Avis during this period of time who were not allowed
14 to do it again for some reason?

15 A No.

16 Q Was the need for shuttlers a regular thing or did
17 it fluctuate?

18 A Fluctuated.

19 Q Was there a specific time, did you repeat a certain
20 date, a certain hour?

21 A Yes, but that would change also. You couldn't say
22 every Wednesday at 10:00 o'clock, no.

23 Q Do you know where Mr. Bradford got people that came
24 in as shuttlers?

25 A No, I don't.

1 MR. HIPPLE: That will do it.

2 MR. STILLMAN: No questions.

3 We will waive signature and he will take care of
4 the filing for you.

5 (It was stipulated by and between counsel
6 that the signature of the deposition by
7 this witness be waived.)

8 * * * *

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11 [Reporter's Certificate omitted in duplicating]

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